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## TITLE 6—AGRICULTURAL CREDIT

### Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

#### Subchapter C—Loans, Purchases, and Other Operations

[1950 CCC Cotton Bulletin 1]

#### PART 607—COTTON

#### SUBPART—1950 COTTON LOAN PROGRAM

##### 1950 COTTON LOAN BULLETIN

This bulletin contains the instructions and requirements with respect to the 1950 Cotton Loan Program of Commodity Credit Corporation (hereinafter referred to as CCC) formulated by CCC and the Production and Marketing Administration (hereinafter referred to as PMA). Loans will be made available on upland cotton produced in 1950, in accordance with this bulletin.

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- 607.101 Administration.
- 607.102 Availability of loans.
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- 607.128 Custodial offices.
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- 607.130 Schedule of premiums and discounts for upland cotton.

**AUTHORITY:** §§ 607.101 to 607.130 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. Supp., 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; 15 U. S. C. Supp., 714c.

§ 607.101 *Administration.* Under the general direction and supervision of the President, CCC, the Cotton Branch and other appropriate branches of PMA will carry out the provisions of this program. In the field, the program will be administered through PMA commodity offices, State PMA Committees, and county PMA committees (hereinafter referred to as county committees). Forms will be distributed by the applicable PMA commodity office and will be available at the offices of county committees, approved lending agencies, approved warehouses, and others designated to assist in administering the loan program.

§ 607.102 *Availability of loans.* Loans will be available to eligible producers on eligible cotton.

(a) *Area.* (1) Loans on eligible cotton stored in approved warehouses will be available in all areas.

(2) Loans on eligible cotton stored in approved structures, on or off the farm (hereinafter referred to as "farm storage") will be available in the States and counties for which loan rates will be established.

(3) Loans on eligible cotton covered by bills of lading will be available in areas specified by the applicable PMA commodity office.

(b) *Time.* Loans will be available from the date the loan rates are announced through April 30, 1951.

(c) *Source.* Loans may be obtained by producers from approved lending agencies or from the applicable PMA commodity office.

§ 607.103 *Producer.* A producer shall be any individual, partnership, corporation, association, trust, estate, or other legal entity, or a State or political subdivision thereof, or an agency of such State or political subdivision, producing upland cotton in 1950 in the capacity of landowner, landlord, tenant or sharecropper.

§ 607.104 *Eligible producer.* A producer will be entitled to a loan on eligible cotton produced by or for him in 1950 on a farm for which a 1950 cotton acreage allotment has been determined under Title III of the Agricultural Adjustment Act of 1938, as amended and supplemented, if all of the following requirements are met:

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(a) The 1950 planted acreage (as determined for purposes of cotton marketing quotas) of upland cotton on the farm does not exceed such 1950 cotton farm acreage allotment. For the purpose of determining eligibility for a loan, the upland cotton acreage on the farm will not be deemed to be in excess of such acreage allotment unless such acreage allotment is knowingly exceeded. If the producer operating the farm is notified that such acreage allotment has been exceeded and the planted acreage is not adjusted to such acreage allotment within the period allowed under the notice, such acreage allotment shall be deemed to have been knowingly exceeded by the producers having an interest in the cotton.

(b) His aggregate share of the 1950 planted acreage of upland cotton on all farms in which he has an interest does not exceed, as determined by the county or State PMA committee, his aggregate share of the 1950 cotton acreage allotments for such farms. The producer's share of the acreage allotment for any farm shall be deemed to be proportionate to his share of the planted upland cotton acreage on the farm.

(c) Where eligible cotton is produced by a landlord and his share tenant or sharecropper, a loan may be obtained only as follows:

(1) If the cotton is divided among the producers entitled to share in such cotton, each landlord, tenant, and sharecropper may obtain a loan on his separate share.

(2) If the cotton is not divided, (i) the landlord and one or more of the share tenants or sharecroppers may obtain a joint loan on their shares of such cotton, or (ii) the landlord may obtain a loan on cotton in which both he and a share tenant or a sharecropper have an interest if he has the legal right to do so, and in such case the share tenant or sharecropper must be paid his pro rata share of the loan proceeds and his pro rata share of any additional proceeds received from the cotton. In no case shall a share tenant or sharecropper obtain a loan individually on cotton in which a landlord has an interest.

§ 607.105 *Eligible cotton.* Eligible cotton shall be upland cotton produced in the United States in 1950 which meets the following requirements:

(a) Such cotton must be of a grade and staple length specified in § 607.130.

(b) Such cotton must be represented by warehouse receipts complying with the provisions of § 607.119 or bills of lading complying with the provisions of § 607.123 or must be covered by a Cotton Chattel Mortgage (CCC Cotton Form F, hereinafter referred to as "Form F") and a 1950 Cotton Mortgage Supplement (1950 CCC Cotton Form FF, hereinafter referred to as "Form FF") which will give the payee of the Cotton Producer's Note (CCC Cotton Form E, hereinafter referred to as "Form E") secured by such mortgage a first lien on such cotton.

(c) Such cotton must not be false-packed, water-packed, reginned or re-packed, and must not have been classed as gin cut, oily, sandy, dusty, or seedy, or reduced in grade because of extraneous matter (such as needle grass).

(d) Such cotton must not be compressed to high density.

(e) Such cotton must be free and clear of all liens and encumbrances, except warehouseman's liens in the case of warehouse-stored cotton.

(f) Such cotton must have been produced by the person tendering it for a loan, and such person must have the legal right to pledge or mortgage it as security for a loan.

(g) If the person tendering such cotton for a loan is a landlord or landowner, the cotton must not have been acquired by him directly or indirectly from a share tenant or sharecropper and must not have been received in payment of fixed or standing rent; and if it was produced by him in the capacity of landlord, share tenant, or sharecropper, it must be his separate share of the crop, unless he is a landlord and is tendering cotton in which both he and a share tenant or sharecropper have an interest.

(h) The person tendering such cotton for a loan must not have previously executed and delivered, with respect to such cotton, a 1950 Cotton Producer's Note and Loan Agreement (1950 CCC Cotton Form A, hereinafter referred to as "Form A"), a Form E, or a 1950 CCC Cotton Form G-2, and must not have previously sold and repurchased such cotton.

(i) Each bale of such cotton must weigh at least 300 pounds.

(j) All persons having an interest in the cotton must be entitled to a loan under this part.

§ 607.106 *Forms.* The following documents must be delivered by producers in connection with every loan except loans made pursuant to §§ 607.124 and 607.127. (A Form A or E executed by an administrator, executor or trustee will be acceptable only where valid in law and must be accompanied by documentary evidence of the authority of the person executing the form or by a repurchase agreement of the lending agency. Copies of this agreement may be obtained from the applicable PMA commodity office. State documentary revenue stamps shall be affixed to loan documents where required by law.)

(a) *Warehouse storage loans.* (1) Cotton Producer's Note and Loan Agreement (CCC Cotton Form A) duly executed within the period prescribed in § 607.102.

(2) Warehouse receipts complying with the provisions of § 607.119.

(3) Producer's Letter of Transmittal (CCC Cotton Form B, hereinafter referred to as "Form B") if the loan is obtained direct from the applicable PMA commodity office.

(b) *Farm storage loans.* (1) Cotton Producer's Note (CCC Cotton Form E) duly executed within the period prescribed in § 607.102.

(2) Cotton Chattel Mortgage (CCC Cotton Form F) and 1950 Cotton Mortgage Supplement (CCC Cotton Form FF) covering the cotton tendered as security for loan.

(3) Form B if the loan is obtained direct from the applicable PMA commodity office.

(c) *Cotton represented by order bills of lading.* (1) Form A duly executed within the area and during the period such loans are available.

(2) Order bill of lading in a form acceptable to CCC and representing the cotton tendered as security for the loan.

(3) Weight and Condition Certificates complying with the provisions of § 607.123 if the Receiving Agency is not a warehouseman.

(4) Form B if the loan is obtained direct from the applicable PMA commodity office.

§ 607.107 *Approved lending agency.* An approved lending agency shall be any bank, corporation, partnership, association, individual, or other legal entity which has entered into a Lending Agency Agreement (CCC Cotton Form D) with CCC covering loans on 1950-crop cotton. Organizations desiring to enter into such agreements should communicate with the local county committee.

§ 607.108 *Approved storage—(a) Warehouses.* Cotton in warehouses will be accepted as security for loans under this part only if stored in warehouses approved by CCC. Warehousemen desiring approval of their facilities should communicate with the local county committee. When warehouses are approved, notification will be given either by letter or by published lists.

(b) *Farm storage.* Cotton in farm storage will be accepted as security for loans under this part only if stored in a structure approved by the county committee for the county in which the cotton is stored. Such structures may be on or off the farm and must afford safe storage and protection against weather damage, poultry and livestock, and reasonable protection against fire and theft. If the producer does not own the premises where the cotton is stored and his lease on such premises expires prior to September 30, 1951, the owner of such premises must execute the Consent for Storage on the Cotton Mortgage Supplement. Any other tenant who has a right or interest in the premises must also execute the Consent for Storage.

§ 607.109 *Amount, weight, and rate.* (a) Loans will be made on the gross weight of the cotton. Notes covering cotton pledged on reweights will not be accepted if it is evident that such reweights reflect an increase in weight due

to the absorption of additional moisture. An allowance of 7 pounds per bale will be made for bales covered with cotton bagging.

(b) The base loan rate applicable at each approved warehouse will be shown in the "Schedule of Base Loan Rates for Warehouse-Stored Cotton" and the base loan rate under the farm-storage program for each county will be shown in the "Schedule of Base Loan Rates by Counties for Farm-Stored Cotton." These schedules will be published by CCC and will be available at county committee offices. The premium or discount applicable to each eligible grade and staple length is shown in § 607.130.

§ 607.110 *Preparation of documents.* All blanks on the loan forms must be filled in with ink, indelible pencil, or typewriter in the manner indicated therein, and no documents containing additions, alterations, or erasures will be accepted by CCC. The spaces provided in the notes on Forms A and E for the producer to request and direct payment of the proceeds of the note must be completed in every instance. All disbursements made from the proceeds of the note by the lending agency, including clerks' fees when deducted, must be shown. If the proceeds are to be paid only to the producer, his name should be shown. The total must agree with the amount of the note.

Before the clerk prepares loan documents for a producer, he must determine that the producer is eligible for a loan. The reverse side of the producer's marketing card will show the producer's eligibility. If the box following the word "Eligible" contains an "X" the clerk will use this as evidence that the producer is eligible for a loan and shall assist the producer in the preparation of his loan documents. If the box following the words "Ineligible unless Loan Agreement Approved by County Committee" contains an "X" the clerk shall inform the producer that in order for him to obtain a loan he must have his loan documents prepared in the county office. If the box following the word "Ineligible" contains an "X" the producer cannot obtain a loan on cotton produced on that farm under any condition and should be so informed by the clerk. In the event that the marketing card indicates that the producer is eligible but shows evidence of any alteration or erasure, the clerk should not prepare loan documents and should inform the producer that the documents will have to be prepared in the county office.

(a) *Warehouse-storage cotton.* A producer desiring to obtain a loan on warehouse-stored cotton may obtain the necessary forms from county committees, approved lending agencies, approved warehouses, and approved clerks (persons approved by the county committees to assist producers in preparing and executing the loan forms). The Clerk's Certificate in each Form A tendered for a loan must be executed by an approved clerk, who will assist the producer in the preparation and execution of the Form A. The original of Form A must be signed by the producer and the copy marked "duplicate" is to be retained by

the producer. All of the cotton pledged as security for any loan must be of only one grade and staple and must be stored in the same warehouse.

(b) *Farm-storage cotton.* A producer desiring to obtain a loan on farm-storage cotton should communicate with the county committee in the county in which the cotton is to be stored. The county committee will inspect the storage structure and approve it if it determines that it is of such construction as to afford adequate storage for the cotton. A service charge of \$1 per bale with a minimum of \$3.00 per loan will be collected by the county committee from the producer to cover services rendered under this program. No such service charge will be refunded. The producer may also obtain the necessary loan forms from, and will be assisted in their preparation, by the county committee. A deposit of \$1.00 per bale will also be collected from the producer to guarantee delivery of the cotton if the loan is not repaid by the producer. Such deposit will be returned if the loan is repaid or the cotton is delivered in accordance with the provisions of Form FF. If the producer does not deliver the cotton upon demand by CCC, the county committee will arrange delivery and retain the deposit. The original of the Form FF will be retained by the county committee. If the producer desires to obtain a loan directly from CCC, the county committee will forward the loan documents for the producer.

(c) *Fees.* The clerk or county committee assisting the producer in the preparation of the loan documents may collect a fee from the producer not to exceed the fees shown in the following schedule:

Number of bales on note	Maximum fee allowed
1-----	25 cents.
2-6-----	25 cents plus 15 cents for each bale over 1.
7-18-----	\$1.00 plus 10 cents for each bale over 6.
19 and over--	\$2.20 plus 5 cents for each bale over 18.

§ 607.111 *Liens.* Eligible cotton must be free and clear of all liens except warehouseman's liens on warehouse-storage cotton. The signatures of the holders of all existing liens on cotton tendered as security for a loan, such as landlords, laborers, or mortgagees (but not the warehouseman, if the cotton is stored in a warehouse) must be obtained in the Lienholders' Waiver on each Form A and Form FF. If the producer tendering the cotton for the loan is not the owner of the land on which the cotton was produced, all landowners and landlords must sign the Lienholders' Waiver on the Form A or Form FF whether or not they claim liens, unless they sign the note jointly with the borrower. A fraudulent representation, as to prior liens or otherwise, will render the producer personally liable under the terms of the Loan Agreement and subject him to criminal prosecution under the provisions of the Commodity Credit Corporation Charter Act. The Lienholders' Waiver must be signed personally by all lienholders, by their agents (in which case duly executed powers of attorney

must be attached) or, if a corporation, by the designated officer thereof customarily authorized to execute such instruments (in which case no authority need be attached)

§ 607.112 *Set-offs.* (a) If the producer is indebted to CCC on any accrued obligation, or if any installments past due or maturing within twelve months are unpaid on any loan made available by CCC on farm-storage facilities, whether held by CCC or a lending agency, the producer must designate CCC or such lending agency as the payee of the proceeds of the loan to the extent of such indebtedness or installments, but not to exceed that portion of the proceeds remaining after deduction of loan service fees and amounts due prior lienholders. If the producer is indebted to any other agency of the United States, and such indebtedness is listed on the county debt register, he must designate such agency as the payee of the proceeds as provided above. Indebtedness owing to CCC or to a lending agency as provided above shall be given first consideration after claims of prior lienholders. In such case, the producer must go to the office of the county committee in the county in which it is listed on the debt register and have his loan documents completed by a clerk in the county office. A clerk in the office of the county committee will assist the producer in the preparation of such loan documents and will show in the space provided in the notes the agency to which the check should be issued and the amount to be collected from the note.

(b) Compliance with the provisions of this section shall not constitute a waiver of any right of the producer to contest the justness of the indebtedness involved either by administrative appeal or by legal action.

#### § 607.113 *Classification of cotton.*

(a) All cotton must be classed by a Board of Cotton Examiners of the United States Department of Agriculture (hereinafter referred to as the "Board") Warehousemen (for warehouse-storage cotton) receiving agencies (for cotton covered by bills of lading) and county committees (for farm-storage cotton) should forward samples to the Board serving the district in which the cotton is located. A Cotton Classification Memorandum Form A3 must be inserted in each sample. A Tag List and Record Sheet (CCC Cotton Form L, hereinafter referred to as "Form L") must be prepared by the warehouseman, receiving agency or county committee listing each sample included in a shipment to the Board. A copy of such Form L shall be included with the samples and two copies must be mailed separately to the Board. The Board will enter the classification of each bale on the Form L and return a copy of such form to the warehouse, receiving agency or county committee. The Cotton Classification Memorandum Form A3 will be returned to the producer by the Board. A Cotton Classification Memorandum Form 1 of the United States Department of Agriculture will also be accepted, provided the sample is a representative cut sample drawn in accordance with instructions to organized cotton improvement

groups for sampling cotton under the 1950 Smith-Doxey Program. If a sample has been drawn and submitted for a Form 1 classification, another sample may not be drawn and forwarded to a Board except for review.

(b) A charge of 25 cents per bale shall be collected from the producer for all cotton for which samples are submitted to a Board for classification, except that no charge shall be collected for samples submitted for Form 1 classification. The Boards will submit billings for classing charges to the warehousemen, receiving agencies, and county committees at the end of each month. A certified check, cashier's check, or postal money order payable to Treasurer of United States in care of CCC must be sent to the applicable PMA commodity office by each warehouseman, receiving agency, and county committee in payment of these charges.

#### § 607.114 *Method of obtaining loans.*

Producers may obtain loans from a local lending agency, which, in turn, will tender the notes evidencing such loans to CCC, or direct from the applicable PMA commodity office. A producer, if he so desires, may designate persons other than himself to receive all or part of the proceeds of the loan by designating them in the spaces provided in the note. In each case where the loan is obtained from the applicable PMA commodity office, the note must be made payable to CCC and must be tendered to the applicable PMA commodity office with a Form B, in duplicate, postmarked not later than April 30, 1951, if tendered by mail. Upon receipt of all necessary documents, properly executed, and upon approval, payment will be made in accordance with the directions of the producer contained in the note.

§ 607.115 *Lending agency.* The lending agency shall execute the Payee's Endorsement on Forms A and E. In the case of warehouse-storage cotton, care should be exercised by the lending agency to determine that the warehouse receipts are genuine. No deduction may be made from the loan proceeds by the lending agency as a charge for handling the loan documents, except the authorized clerk's fee in case an employee of the lending agency has executed the Clerk's Certificate on Form A. Lending agencies may carry their investment in the loans and receive interest at the rate of 1½ percent per annum. Lending agencies which are also eligible producers must obtain direct loans from the applicable PMA commodity office in accordance with § 607.114 or obtain loans from another approved lending agency on cotton produced by them.

§ 607.116 *Interest rate.* Loans will bear interest at the rate of 3 percent per annum from the date of disbursement.

§ 607.117 *Maturity.* Loans mature July 31, 1951, or upon such earlier date as CCC may make demand for payment. If a producer does not repay his loan by maturity, CCC has the right to sell, purchase or pool the cotton securing the loan in accordance with the provisions of the loan agreements. If the cotton is pooled, the producer will no longer have

a right to redeem the cotton, but will share ratably in any overplus remaining upon liquidation of the pool. CCC shall have the right to treat any pooled cotton as a reserve supply to be marketed under such sales policies as CCC determines will promote orderly marketing, protect the interests of producers and consumers, and not unduly impair the market for the current crop of cotton, even though part or all of such pooled cotton is disposed of under such policies for prices less than the current domestic price for such cotton.

Any sum due the producer as a result of the sale of the cotton or collections of insurance proceeds therefrom, or his ratable share from a pool, shall be payable only to the producer or his personal representative without right of assignment to or substitution of any other person.

(a) *Farm storage.* If the producer does not repay his loan on or before maturity, he is required to deliver the cotton in accordance with the provisions of Form FF, and if the cotton is not delivered by the producer, the holder of the note may enter on the premises where the cotton is stored and remove the cotton. Upon such delivery or removal, the holder may dispose of the cotton in accordance with the provisions of this section.

§ 607.118 *Safeguarding farm-storage cotton.* The producer obtaining a farm-storage loan is obligated to maintain the farm-storage structure in good repair and to keep the cotton in good condition. The producer will be responsible for any loss or damage occurring through the fault or negligence of the producer or any other person having control of the storage structure or as a result of any cause other than fire, flood, lightning, explosion, windstorm, cyclone, or tornado except that he will not be responsible for loss in weight of not to exceed 10 pounds per bale which is due to natural shrinkage. The maximum amount of cotton stored in any structure shall be limited to 200 bales if only one producer has cotton stored in such structure and to 100 bales if more than one producer has cotton stored in such structure. The conversion or unlawful disposition of any bale of the cotton will render the producer personally liable for the payment of the mortgage indebtedness.

§ 607.119 *Warehouse receipts and insurance.* (a) Only negotiable warehouse receipts issued by an approved warehouse in the name of the individual, individuals, or concern who appear as producer on the Cotton Producer's Note to which the receipt is pledged will be acceptable, except that receipts representing cotton pledged in the name of a landowner, landlord, tenant or sharecropper or pledged jointly in the name of two or more parties to a tenancy will be acceptable when issued in the name of either individual who is a party to the tenancy or a signatory to the note. In those instances where the warehouse receipt is issued to an individual or concern who is a party to the tenancy, but who cannot be identified as such from the note, the producer securing a loan will be required to submit a statement

certifying that the individual in whose name the warehouse receipt is issued is a tenant or sharecropper of the producer. The warehouse receipts must show that the cotton is covered by fire insurance, must be dated on or prior to the date of the producer's notes, and, if not bearer form receipts, must be properly assigned by an endorsement in blank so as to vest title in the holder. They must set out in their written or printed terms a description by tag number and weight of the bale represented thereby and all other facts and statements required to be stated in the written or printed terms of a warehouse receipt under the provisions of section 2 of the Uniform Warehouse Receipts Act. Warehouse receipts issued prior to August 1, 1950, which by their terms will expire prior to August 1, 1951, must bear an endorsement of the warehouseman extending the terms of the warehouse receipts for a period of one year from August 1, 1950. Block warehouse receipts will not be accepted.

(b) In addition to the insurance carried by the warehouseman, CCC will carry insurance on the loan cotton covering losses due to flood and errors and omissions in the warehouseman's insurance. The cost of such insurance will be a charge against the cotton.

§ 607.120 *Insurance on farm-storage cotton.* CCC will not require the producer to insure cotton under farm-storage loan; however, if the producer does insure the cotton, such insurance shall inure to the benefit of CCC to the extent of its interest, after first satisfying the producer's equity in the cotton involved in the loss.

§ 607.121 *Warehouse charges.* The warehouseman's charges are limited and his obligations defined by the Warehouseman's Certificate and Storage Agreement contained in Form A. The Agreement of Warehouseman on Form A must be executed by the warehouseman not more than 10 days preceding the date of the note.

§ 607.122 *Tender of notes by lending agencies.* Notes (Forms A and Forms E) evidencing loans made by a lending agency which has entered into a Lending Agency Agreement (CCC Cotton Form D) prior to the making of the loans will be eligible for purchase or pooling by CCC. Under this agreement, lending agencies which are parties thereto are required to tender to CCC, on Form C executed in quadruplicate, all notes on Form A and Form E with warehouse receipts, bills of lading (and weight and condition certificates, if required) or cotton chattel mortgages attached, representing loans made by the lending agency within 15 days after the dates of the notes. Forty notes shall be submitted on each Form C except when fewer notes are listed thereon in order that the loans may be tendered within 15 days after the dates of the notes. All notes transmitted on a Form C must cover cotton stored in warehouses in the same custodial district. Notes secured by warehouse receipts, by bills of lading and by chattel mortgages must be transmitted on separate Forms C. Notes accompanied by Producer's Powers of Attorney must also be transmitted on

separate Forms C. Each Form C shall state whether the lending agency desires CCC to purchase the notes or to place them in a pool. Upon receipt of the loan papers by the applicable FMA commodity office, they will be examined and, if found correct, will be approved and transmitted to the custodial office serving the district in which the cotton is stored, and will be purchased or placed in a pool, as directed by the lending agency. Lending agencies which have previously been approved by CCC as eligible to draw drafts on CCC may, subject to such instructions and requirements as CCC may hereafter from time to time prescribe, obtain immediate payment for notes they desire to sell to CCC, by tendering such notes and letters of transmittal with sight drafts drawn on CCC through a Federal Reserve Bank or Branch Bank approved by CCC. In the event that the notes are pooled, a Certificate of Interest representing the interest in the pool acquired as the result of the deposit therein of the notes shown on the Form C will be issued to any approved lending agency designated on the Form C.

§ 607.123 *Loans on order bills of lading.* (a) Loans on cotton represented by order bills of lading will be available only in areas specified by the applicable FMA commodity office where there is a shortage of storage space and where the necessary arrangements for handling the cotton may be made.

(b) Cotton represented by order bills of lading will be eligible for a loan only when it is shipped by an approved receiving agency as agent for the producer. Warehousemen, ginners, and other responsible parties in areas where such loans are available may be approved to act as receiving agencies by the applicable FMA commodity office. Receiving agencies will enter into Receiving Agency Agreements with CCC. When receiving agencies are approved, notification will be given by letter or published lists.

(c) A producer who is unable to find storage space in his local area and who wishes to obtain such a loan should deliver his cotton to a receiving agency with the request that it ship the cotton as agent for the producer to a warehouse where storage space is available. The receiving agency will complete the Schedule of Pledged Cotton on a Form A and, if it is a warehouseman, will execute the Warehouseman's Certificate and Storage Agreement thereon. If the receiving agency is not a warehouseman, it will have the cotton weighed by a public or licensed weigher and will secure a Weight and Condition Certificate in the form prescribed by CCC. The receiving agency will ship the cotton, secure order bills of lading in a form acceptable to CCC, and deliver to the producer the bills of lading, together with Forms A and Weight and Condition Certificates (if any). If the receiving agency is a warehouseman, it will be permitted to collect fees in accordance with the Warehouseman's Certificate and Storage Agreement and a fee of not to exceed 10 cents a bale to cover the cost of preparation of shipping documents. If the receiving agency is not a warehouseman, it will be permitted to collect from pro-



ducers a fee not to exceed the fee set forth in the Receiving Agency Agreement executed by the receiving agency, and shall post, in a conspicuous place, a notice showing the fee to be charged producers. Loans will be made at the full loan rate at the point where the receiving agency receives the cotton. CCC will pay warehouse storage charges on cotton tendered by the producer for a loan under this section, if the receiving agency is a warehouseman.

§ 607.124 *Advance loans.* (a) If a producer desires to obtain a loan under this part on cotton stored or to be stored in a warehouse, prior to the announcement of the loan rates on such cotton (as determined on the basis of the August 1, 1950, parity price of cotton) prior to the receipt of the classification of such cotton by a Board of Cotton Examiners, or prior to the issuance of a warehouse receipt representing the cotton, and if the producer desires to obtain interim financing from a lending agency until such time as a CCC loan may be obtained, the lending agency may make the producer a private loan (hereinafter called "the advance loan") on such cotton on forms and in amounts agreed upon between the lending agency and the producer and may obtain from the producer a duly executed Producer's Power of Attorney (CCC Cotton Form J, hereinafter referred to as "Form J") in triplicate authorizing and directing the lending agency to prepare or cause to be prepared and execute on behalf of and in the name of the producer Forms A covering all such cotton which is eligible for a loan under this part. The duplicate copy shall be delivered to the producer. On or before the date the advance loan is made, samples must have been drawn from the cotton and submitted to a Board of Cotton Examiners for classification or, if the cotton has not arrived at the warehouse, the warehouseman must have been instructed to sample the cotton and forward the samples for classification upon receipt of the cotton at the warehouse. On or before September 1, 1950, or within 15 days after the dates of the classification certificates, or within 15 days after the dates of the warehouse receipts, whichever is later, the lending agency shall (as provided in the Producer's Power of Attorney) unless the cotton is redeemed by the producer, prepare or cause to be prepared and execute on behalf of the producer Forms A covering all of such cotton which is eligible for a loan and make a CCC loan or loans to the producer under this part. The lending agency shall promptly remit to the producer any difference between the amount due on the advance loan and the proceeds of the CCC loan, less any applicable charges under this part paid by the lending agency on behalf of the producer. The duplicate copies of Forms A and the canceled note evidencing the advance loan shall be forwarded to the producer. The original of the Producer's Power of Attorney shall be transmitted with the notes when they are tendered to CCC.

(b) It shall be the joint responsibility of the lending agency named in the Form J to obtain the official classification from the producer or the warehouseman and

of the producer to deliver the official classification to such lending agency, within 15 days from the date of the classification certificate, so that the Form A loans can be made within the specified time.

(c) It shall be the responsibility of the lending agency named in the Form J to obtain the execution of the Warehouseman's Certificate and Storage Agreement and the Clerk's Certificate on the Form A. Only bona fide employees of lending agencies making the advance loans who are approved as clerks by the county committee, or approved clerks in the office of the county committee, will be permitted to execute the Clerk's Certificate on Forms A covering cotton on which advance loans have been made.

§ 607.125 *Loans prior to August 1, 1950.* Loans will be made available to eligible producers in the area where cotton is harvested prior to August 1, 1950. Base loan rates for warehouse locations in the early harvesting area will be announced by the applicable PMA commodity office prior to harvest. The premium or discount applicable to each eligible grade and staple length is shown in § 607.130. Other provisions for loans prior to August 1, 1950, will be the same as provided for loans after that date except that in the event that 90 percent of parity as of August 1, 1950, is in excess of the rate announced prior to such date, the difference will be paid to the producer upon his application to the applicable PMA commodity office in the manner prescribed by such office.

§ 607.126 *Repayments—(a) Warehouse-stored cotton.* No partial release of the cotton represented by warehouse receipts and securing a note will be permitted. If a producer desires to obtain the return of his note and the release of the cotton securing the note, he must execute the Producer's Redemption Request on the Producer's Loan Statement, which will be furnished to the producer by the applicable PMA commodity office at the time the notes are processed by that office, and must send or deliver the equity transfer to CCC, in care of the custodial office serving the district in which the cotton is stored, as shown in § 607.128. If the producer desires to sell his equity in the cotton, he must complete the Producer's Equity Transfer Agreement in the Producer's Equity Transfer on the reverse side of the Producer's Loan Statement furnished him by the applicable PMA commodity office, and the Certificate of Witness in the Producer's Equity Transfer must be dated and signed by a witness approved for such purpose by a county committee in the cotton-producing area. Outside the cotton-producing area, the certificate may be executed by a notary public. The equity purchaser must complete the Certificate of Purchaser in the Producer's Equity Transfer and send it to CCC, in care of the custodial office serving the district in which the cotton is stored. Upon receipt of the Producer's Redemption Request or the Producer's Equity Transfer, the custodial office will forward the note and warehouse receipts to any approved bank designated by the person requesting their release with directions to the bank to release the note and ware-

house receipts only to the producer or holder of the equity transfer upon payment of the amount due on the loan. In all such cases, the bank will be instructed to return the note and warehouse receipts to the custodial office if payment is not effected within 15 days. All charges assessed by the bank to which the note and warehouse receipts are sent must be paid by the person requesting the release of the cotton. In the event the Producer's Loan Statement is destroyed or lost, the producer may obtain a duplicate of such form from the custodial office serving the district in which the cotton is stored.

(b) *Farm-stored cotton.* If the producer desires to repay his loan and obtain the release of the cotton securing the note, he may obtain complete instructions from the county committee of the county in which the cotton is stored. Partial releases will be allowed.

§ 607.127 *Cotton cooperative marketing association loans.* A special form of loan agreement will be made available to cotton cooperative marketing associations whereby members of such associations may act collectively in obtaining loans. The loan rates under this agreement will be the same as the loan rates to individual producers, and loans to such associations will otherwise be made on substantially the same basis as loans to individual producers. Members desiring to obtain loans from their associations should contact their associations.

§ 607.128 *Custodial offices.* The custodial offices referred to herein and the district served by each are shown below:

(a) Warehouse-storage cotton:

*Custodial Office and District Served*

Federal Reserve Bank, Atlanta, Ga.. Georgia, Alabama, Florida, Virginia, North Carolina, South Carolina.

Federal Reserve Bank, Dallas, Tex.. New Mexico, Texas.

Federal Reserve Bank, Los Angeles, Calif.. California, Arizona.

Federal Reserve Bank, Memphis, Tenn.. Illinois, Kentucky, Arkansas, Missouri, Tennessee, and the following counties in Mississippi: Alcorn, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clay, Coahoma, De Soto, Grenada, Holmes, Humphreys, Itawamba, Lafayette, Lee, Leflore, Lowndes, Marshall, Monroe, Montgomery, Noxubee, Oktibbeha, Panola, Pontotoc, Prentiss, Quitman, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Washington, Webster, Winston, Yalobusha.

New Orleans PMA Commodity Office: Louisiana and counties in Mississippi not assigned to Memphis.

Federal Reserve Bank, Oklahoma City, Okla.. Oklahoma.

(b) Farm-storage cotton:

*Custodial Office and District Served*

New Orleans PMA Commodity Office: All States except Arizona, California, and Nevada.

San Francisco PMA Commodity Office: Arizona, California, and Nevada.

§ 607.129 *PMA Commodity Offices.* The PMA commodity offices and the areas served by each are shown below:

Masonic Temple Building, New Orleans 12, La.. All cotton States except Arizona, California, and Nevada.

335 Fell Street, San Francisco 2, Calif.. Arizona, California, and Nevada.

## § 607.130 Schedule of premiums and discounts for Upland Cotton.

[Basis 3/16 inch Middling]

Grade	Staple length (Inches)														
	3/16	7/8	3/32	1/16	3/32	1	1 1/2	1 1/8	1 1/4	1 1/2	1 3/4	1 1/2	1 1/8	1 1/4	1 1/2 and longer
<i>White and extra white</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>	<i>Pts.</i>
Good Middling and Better	-140	-95	-20	75	115	170	210	240	240	490	735	1,065	1,510	2,140	
Strict Middling	-155	-105	-30	65	105	155	195	225	225	470	710	1,130	1,585	2,115	
Middling	-225	-155	-25	Base	35	89	110	135	210	320	575	1,045	1,745	1,920	
St. Low Middling	-430	-300	-305	-230	-225	-215	-175	-160	-110	-25	120	435	770	845	
Low Middling	-720	-630	-605	-535	-525	-515	-440	-420	-430	-470	-465	-440	-420	-410	
St. Good Ordinary	-925	-825	-830	-830	-820	-815	-815	-815	-815	-765	-765	-765	-765	-765	
Good Ordinary	-1,205	-1,125	-1,070	-1,060	-1,060	-1,060	-1,060	-1,060	-915	-915	-915	-915	-915	-915	
<i>Spotted</i>															
Good Middling	-370	-275	-195	-110	-65	-75	-65	-65	-65	Even	35	75	125	175	
Strict Middling	-380	-285	-215	-125	-115	-75	-69	-70	-70	-15	15	79	100	150	
Middling	-530	-435	-410	-315	-310	-255	-230	-230	-230	-230	-190	-153	-129	-115	
St. Low Middling	-630	-530	-505	-410	-405	-350	-325	-325	-325	-325	-285	-250	-220	-210	
Low Middling	-1,215	-1,135	-1,075	-1,010	-1,010	-1,030	-1,030	-1,030	-930	-930	-930	-930	-930	-930	
<i>Tinged</i>															
Good Middling	-780	-680	-640	-535	-530	-460	-425	-425	-420	-420	-420	-420	-420	-420	
Strict Middling	-815	-720	-670	-615	-610	-540	-505	-505	-505	-505	-505	-505	-505	-505	
Middling	-1,095	-935	-855	-735	-735	-615	-515	-515	-515	-515	-515	-515	-515	-515	
St. Low Middling	-1,285	-1,205	-1,160	-1,100	-1,095	-1,035	-1,035	-1,035	-1,035	-1,035	-1,035	-1,035	-1,035	-1,035	
Low Middling	-1,450	-1,355	-1,300	-1,235	-1,235	-1,220	-1,220	-1,220	-1,175	-1,175	-1,175	-1,175	-1,175	-1,175	
<i>Yellow strained</i>															
Good Middling	-1,115	-1,060	-1,005	-945	-940	-835	-825	-825	-820	-820	-820	-820	-820	-820	
Strict Middling	-1,175	-1,115	-1,045	-980	-970	-870	-860	-860	-855	-855	-855	-855	-855	-855	
Middling	-1,370	-1,315	-1,255	-1,200	-1,200	-1,120	-1,120	-1,120	-1,125	-1,125	-1,125	-1,125	-1,125	-1,125	
<i>Gray</i>															
Good Middling	-455	-410	-320	-270	-240	-220	-215	-210	-205	-110	-25	50	160	150	
Strict Middling	-565	-495	-400	-330	-325	-265	-260	-255	-250	-170	-100	-25	25	75	
Middling	-670	-640	-545	-480	-470	-420	-415	-410	-405	-320	-250	-200	-200	-155	
St. Low Middling	-1,100	-1,025	-975	-920	-920	-825	-820	-815	-810	-820	-820	-820	-820	-820	

Issued this 8th day of August, 1950.

[SEAL] ELMER F. KRUSE,  
Vice President,  
Commodity Credit Corporation.

Approved:

RALPH S. TRIGG,  
President,  
Commodity Credit Corporation.

[F. R. Doc. 50-7032; Filed, Aug 10, 1950;  
8:51 a. m.]

## TITLE 7—AGRICULTURE

## Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Pear Order 3]

PART 939—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

## REGULATION BY GRADES AND SIZES

## § 939.303 Pear Order 3—(a) Findings.

(1) Pursuant to the marketing agreement and Order No. 39 (7 CFR Part 939) regulating the handling of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations and information submitted by the Control Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is

hereby found that the limitation of shipments of such pears, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 15, 1950. A reasonable determination as to the composition of the available supplies of such pears, and therefore the extent of grade and size regulation warranted, must await the development of the crop; recommendations as to the need for, and the extent of, regulation of shipments of such pears were made by said committee on July 14, 1950, after consideration of all information then available relative to the supply and demand conditions for such pears, at which time such recommendations and supporting information were submitted to the Department and notice thereof given to handlers and growers; necessary supplemental information was not available to the Department until July 28, 1950; shipments of the current crop of such pears are expected to begin on or about August 15, 1950, and this regu-

lation should be applicable to all shipments of such pears in order to effectuate the declared policy of the act; and compliance with this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(b) Order. (1) During the period beginning at 12:01 a. m., P. s. t., August 15, 1950, and ending at 12:01 a. m., P. s. t., July 1, 1951, no handler shall ship:

(i) Any Beurre D'Anjou pears which do not meet the requirements of the U. S. No. 2 grade: *Provided*, That Beurre D'Anjou pears may be shipped in interstate commerce only, and not in foreign commerce, when bearing unhealed broken skins or skin punctures measuring not to exceed three-sixteenths of one inch in diameter or depth, as the case may be, if they otherwise meet the requirements of the U. S. Combination grade;

(ii) Any Winter Nelis, Doyenne du Comice, Beurre Bosc, Beurre Easter, or Beurre Clairgeau pears which do not meet the requirements of the U. S. No. 2 grade;

(iii) Any Winter Nelis pears which are of a size smaller than the 225 size;

(iv) Any Doyenne du Comice, Beurre Bosc, Beurre Easter or Beurre Clairgeau pears which are of a size smaller than the 180 size; or

(v) Any Beurre D'Anjou pears which are of a size smaller than the 195 size.

(2) Definitions. As used herein, "handler," "ship," "shipments," and "shipped" shall have the same meaning as when used in the aforesaid marketing agreement and order; "U. S. No. 2" and "U. S. Combination Grade" shall have the same meaning as when used in the United States Standards for Winter Pears such

as Anjou, Bosc, Winter Nelis, Comice, and other similar varieties, issued by the United States Department of Agriculture, effective July 8, 1940 (14 F. R. 7415, 7479, 7 CFR 51.332), and "180 size," "195 size," and "225 size" shall mean that the pears are of a size which, as indicated by the size number, will pack, in accordance with the sizing and packing specifications of a standard pack, as specified in said United States Standards, 180, 195, or 225 pears, respectively, in a standard western pear box (inside dimensions, 18 inches long by 11½ inches wide by 8½ inches deep)

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c)

Done at Washington, D. C., this 8th day of August 1950.

[SEAL] S. R. SMITH,  
Director Fruit and Vegetable  
Branch, Production and Marketing Administration.

[F. R. Doc. 50-7011; Filed, Aug. 10, 1950;  
8:46 a. m.]

#### PART 958—IRISH POTATOES GROWN IN COLORADO

##### LIMITATION OF SHIPMENTS

§ 958.307 *Limitation of shipments—*  
(a) *Findings.* (1) Notice of proposed rule making with respect to shipments of potatoes grown in Area No. 2, State of Colorado, to be made effective under Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958) regulating the handling of Irish potatoes grown in the State of Colorado, was published in the FEDERAL REGISTER (15 F. R. 4771). This regulatory program is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 61 Stat. 202, 707-62 Stat. 1247, 63 Stat. 1051). After consideration of all matters presented, including the proposed rule set forth in the aforesaid notice, which proposed rule was recommended by the administrative committee for Area No. 2 (established pursuant to said marketing agreement and order), it is hereby found that the limitation of shipments hereinafter set forth, in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby found that it is impracticable and contrary to the public interest to postpone the effective date of this action until 30 days after publication thereof in the FEDERAL REGISTER in that (i) shipments of potatoes from the production area will have begun by August 15, 1950, (ii) more orderly marketing in the public interest than would otherwise prevail will be promoted by regulating the shipment of potatoes in the manner hereinafter set forth on and after the effective date of this section, (iii) notice has been given of the proposed limitation of shipments by publication thereof, as required by law (15 F. R. 4771) and (iv) the order should become effective on August 15, 1950, in order to effectuate the declared policy of the act.

(b) *Order.* (1) During the period beginning at 12:01 a. m., m. s. t., August 15, 1950, and ending 12:01 a. m., m. s. t., June 1, 1951, no handler shall ship potatoes grown in Area No. 2, as such area is defined in Marketing Agreement No. 97 and Order No. 58, which do not meet the requirements of Regulation No. 1 limiting shipments to U. S. No. 2 or better grade (General Cull Regulation—published in the FEDERAL REGISTER, July 16, 1949—14 F. R. 3979) and which are of sizes smaller than 2 inches minimum diameter, as such sizes are defined in the United States Standards for Potatoes (14 F. R. 1955, 2161) including the tolerances provided therein: *Provided*, That the aforesaid limitations shall not be applicable to (i) potatoes shipped for seed purposes which have been officially certified as seed potatoes by the official Colorado seed certifying agency and which are in containers bearing official Colorado seed certification tags, and (ii) potatoes shipped for consumption by a charitable institution, for relief purposes, or for manufacturing purposes for conversion into by-products.

(2) The terms used in this section shall have the same meaning as when used in Order No. 58 (7 CFR 958.1 et seq.)

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c)

Done at Washington, D. C., this 8th day of August 1950, to be effective on August 15, 1950.

[SEAL] S. R. SMITH,  
Director Fruit and Vegetable  
Branch, Production and Marketing Administration.

[F. R. Doc. 50-7034; Filed, Aug. 10, 1950;  
8:51 a. m.]

## TITLE 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission

[Docket 5249]

#### PART 3—DIGEST OF CEASE AND DESIST ORDERS

##### HUMANIA HAIR GOODS & SPECIALTY CO.

Subpart—*Advertising falsely or misleadingly:* § 3.30 *Composition of goods;* § 3.170 *Qualities or properties of product or service;* § 3.195 *Safety.* In connection with the offering for sale, sale or distribution of his cosmetic preparations designated "B. Paul's Compound" "Herolin Skin Cream" "Henry's Super-Light Working Oil" "Working Oil" "Henry's Sulphur Lanolin Treatment for Hair and Scalp", and "Humania Dandruff Treatment" or any other preparation or preparations of substantially similar composition or possessing substantially similar properties, under whatever name or names sold, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means to induce, etc., directly or indirectly, the purchase in commerce, etc., of said preparation, which advertisements represent, directly or by implication, (a) that the preparation, "B. Paul's Compound" is composed of harmless

ingredients or can be used without harmful effects; (b) that the preparation, "Herolin Skin Cream" constitutes a competent or effective treatment for superficial pimples or marks on the skin; (c) that the preparations "Henry's Super-Light Working Oil" "Working Oil" and "Henry's Sulphur Lanolin Treatment for Hair and Scalp" constitute competent or effective treatments for dandruff or itchy scalp or will relieve itchy scalp, except that caused by minor scalp irritations; (d) that the preparation "Henry's Sulphur Lanolin Treatment for Hair and Scalp" will prevent falling hair or baldness or constitutes a competent or effective treatment thereof; or, (e) that the preparation "Humania Dandruff Treatment" will cure dandruff or constitutes a competent or effective treatment for dandruff; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Modified cease and desist order, Gustave Goldstein trading as Humania Hair Goods & Specialty Co., Docket 5249, June 10, 1950]

*In the Matter of Gustave Goldstein, an Individual Trading as Humania Hair Goods & Specialty Co.*

This proceeding having heretofore been heard by the Federal Trade Commission upon the complaint of the Commission, the respondent's answer thereto, and a stipulation as to the facts entered into by and between the respondent, Gustave Goldstein, and Richard P. Whiteley, Assistant Chief Counsel of the Commission, which said stipulation provided, among other things, that without further evidence or other intervening procedure the Commission might issue and serve upon the respondent its findings as to the facts and its conclusion based thereon and an order disposing of said proceeding; and

The Commission, after having made its findings as to the facts and its conclusion that the respondent had violated the provisions of the Federal Trade Commission Act, on April 27, 1945, issued, and on April 30, 1945, served upon the respondent said findings as to the facts, conclusion, and its order to cease and desist; and

This proceeding, on April 25, 1949, having been reopened for the purpose of receiving such supplemental evidence as might be offered to determine whether or not changed conditions of fact or the public interest, or both, require modification of said findings as to the facts and order to cease and desist, certain supplemental evidence was received and duly filed; and the Commission, having considered said supplemental evidence and the entire record herein and having made its modified findings as to the facts and its conclusion based thereon, and being of the opinion that its order to cease and desist issued on April 27, 1945, should also be modified in certain respects:

*It is ordered*, That the Commission's findings as to the facts, conclusion, and order to cease and desist issued in this proceeding on April 27, 1945, be, and they hereby are, set aside.



It is further ordered, That the respondent, Gustave Goldstein, an individual trading as Humania Hair Goods & Specialty Co., or trading under any other name or through any corporate or other device, and said respondent's agents, representatives and employees, in connection with the offering for sale, sale or distribution of his cosmetic preparations designated "B. Paul's Compound", "Herolin Skin Cream" "Henry's Super-Light Working Oil" "Working Oil," "Henry's Sulphur Lanolin Treatment for Hair and Scalp" and "Humania Dandruff Treatment" or any other preparation or preparations of substantially similar composition or possessing substantially similar properties, under whatever name or names sold, do forthwith cease and desist from directly or indirectly:

1. Disseminating, or causing to be disseminated, by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or by implication,

(a) That the preparation, "B. Paul's Compound" is composed of harmless ingredients or can be used without harmful effects;

(b) That the preparation, "Herolin Skin Cream" constitutes a competent or effective treatment for superficial pimples or marks on the skin;

(c) That the preparations, "Henry's Super-Light Working Oil" "Working Oil" and "Henry's Sulphur Lanolin Treatment for Hair and Scalp" constitute competent or effective treatments for dandruff or itchy scalp or will relieve itchy scalp, except that caused by minor scalp irritations;

(d) That the preparation "Henry's Sulphur Lanolin Treatment for Hair and Scalp" will prevent falling hair or baldness or constitutes a competent or effective treatment therefor;

(e) That the preparation "Humania Dandruff Treatment" will cure dandruff or constitutes a competent or effective treatment for dandruff.

2. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparations, any advertisement which contains any representation prohibited in paragraph 1 hereof.

Issued: June 16, 1950.

By the Commission.

[SEAL] D. C. DANIEL,  
Secretary.

[F. R. Doc. 50-7014; Filed, Aug. 10, 1950;  
8:47 a. m.]

[Docket 5413]

#### PART 3—DIGEST OF CEASE AND DESIST ORDERS

REALFLEX PRODUCTS CO.

Subpart—*Advertising falsely or misleadingly*: § 3.130 *Manufacture or preparation*; § 3.140 *Old, reclaimed or reused*  
No. 155—2

as new; § 3.235 *Source or origin; Maker*. Subpart—*Misbranding or mislabeling*: § 3.1325 *Source or origin; Maker*. Subpart—*Using misleading name* Goods; § 3.2345 *Source or origin; Maker*. In connection with the offering for sale, sale or distribution in commerce, of spark plug cable sets or other automotive specialties (1) representing, directly or indirectly, that their said spark plug cable sets are made with cable of the same quality as the cable used on United States Government planes in combat or that their spark plug cable sets are made from new and unused cable, when such is not a fact; (2) using the words "Champion" "Goodyear" or "Eveready", or any of them, either alone or in connection with any other word or words, to designate, describe, or refer to their said products; (3) representing, in any manner, that their said products are the products of, or are made by, Champion Spark Plug Company, Goodyear Tire & Rubber Company, or National Carbon Company, Inc., or that any of said corporations has any connection with the manufacture or sale of said products; or, (4) representing, through the use of the trade name or mark of any other concern or concerns engaged in the manufacture, sale, or distribution of automotive specialties, or in any other manner, that respondents' said products are the products of, or are made by, such other concerns; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 40. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Martin J. Goldstein et al. trading as Realflex Products Company, Docket 5413, June 14, 1950]

#### In the Matter of Martin J. Goldstein and Isabel Goldstein, Individually and as Copartners Trading Under the Name of Realflex Products Company

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, testimony and other evidence in support of and in opposition to the allegations of the complaint taken before a trial examiner of the Commission theretofore duly designated by it, recommended decision of the trial examiner and exceptions thereto, and briefs and oral argument of counsel, and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, Martin J. Goldstein and Isabel Goldstein, individually and trading as Realflex Products Company, or trading under any other name, and their agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of spark plug cable sets or other automotive specialties, do forthwith cease and desist from:

(1) Representing, directly or indirectly, that their said spark plug cable sets are made with cable of the same quality as the cable used on United States Government planes in combat or that their said spark plug cable sets are made from

new and unused cable, when such is not a fact.

(2) Using the words "Champion" "Goodyear" or "Eveready" or any of them, either alone or in connection with any other word or words, to designate, describe, or refer to their said products.

(3) Representing, in any manner, that their said products are the products of, or are made by, Champion Spark Plug Company, Goodyear Tire & Rubber Company, or National Carbon Company, Inc., or that any of said corporations has any connection with the manufacture or sale of said products.

(4) Representing, through the use of the trade name or mark of any other concern or concerns engaged in the manufacture, sale, or distribution of automotive specialties, or in any other manner, that respondents' said products are the products of, or are made by, such other concerns.

It is further ordered, That the respondents shall, within sixty days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: June 14, 1950.

By the Commission.

[SEAL] D. C. DANIEL,  
Secretary.

[F. R. Doc. 50-7012; Filed, Aug. 10, 1950;  
8:46 a. m.]

[Docket 5566]

#### PART 3—DIGEST OF CEASE AND DESIST ORDERS

GEO-MINERAL CO.

Subpart—*Advertising falsely or misleadingly*: § 3.20 *Comparative data or merits*; § 3.30 *Composition of goods*; § 3.170 *Qualities or properties of product or service*; § 3.205 *Scientific or other relevant facts*. In connection with the offering for sale, sale, or distribution of the preparation designated "Geo-Mineral" or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means to induce, etc., directly or indirectly, the purchase in commerce, etc., of said preparation, which advertisements represent, directly or by implication (a) that said preparation, when used as directed, is a competent or effective treatment for, or will cure, stomach or kidney ailments, bloating, constipation, bowel adhesions, rheumatism, arthritis, neuritis, or will relieve the pains of rheumatism or arthritis, or that it has any value in the treatment of such conditions; (b) that said preparation is a competent or effective treatment for, or will cure, headaches, nervousness or dizzy spells, or will restore vitality, energy, or weakened sexual powers, will improve appetite or increase weight, or will enrich or build the blood, or will correct dullness, tiredness, laziness, poor appe-

tite, or a lack of ambition to work or play, of sparkle in the eye, or of mental brilliance, or similar symptoms and conditions, unless such representations be expressly limited to those instances in which the symptoms and conditions to be treated are due solely to iron deficiency resulting from an inadequate intake of iron in the diet, and unless such advertisement discloses that such of the aforesaid symptoms and conditions are caused less frequently by anemia due to a simple deficiency of iron in the diet than by other causes and that when such symptoms and conditions are due to other causes this preparation will not be effective in relieving or correcting them; (c) that said preparation does not contain drugs or influences health without the use of drugs; (d) that said preparation contains the same minerals in therapeutic amounts as are found in mineral waters of well-known mineral springs, or that its use will produce the benefits ordinarily ascribed to the use of such mineral waters; (e) that said preparation keeps the colon free from waste matter, or that black stools and apparent impurities in the urine demonstrate the value of respondent's product in eliminating waste; (f) that any percentage or number of persons are suffering from nutritional mineral-iron anemia unless such statement is based on authoritative and reliable medical statistics; or, (g) that said preparation will restore health to all persons who may suffer from ill health; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Nicholas Sage trading as Geo-Mineral Company, Docket 5666, June 14, 1950]

*In the Matter of Nicholas Sage, Trading as Geo-Mineral Company*

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and answer by respondent admitting all the material allegations of fact set forth in the complaint and waiving further intervening procedure and hearings as to the said facts, and the Commission having made its findings as to the facts and its conclusion that respondent has violated the provisions of the Federal Trade Commission Act:

*It is ordered*, That Nicholas Sage, individually and trading under the name of Geo-Mineral Company, or any other name, and his agents, representatives, and employees, directly or through any corporate or other devices, in connection with the offering for sale, sale, or distribution of the preparation designated "Geo-Mineral" or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from:

(1) Disseminating or causing to be disseminated by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents directly or by implication:

(a) That said preparation, when used as directed, is a competent or effective

treatment for, or will cure, stomach or kidney ailments, bloating, constipation, bowel adhesions, rheumatism, arthritis, neuritis, or will relieve the pains of rheumatism or arthritis, or that it has any value in the treatment of such conditions.

(b) That said preparation is a competent or effective treatment for, or will cure, headaches, nervousness or dizzy spells, or will restore vitality energy, or weakened sexual powers, will improve appetite or increase weight, or will enrich or build the blood, or will correct dullness, tiredness, laziness, poor appetite, or a lack of ambition to work or play, of sparkle in the eye, or of mental brilliance, or similar symptoms and conditions, unless such representations be expressly limited to those instances in which the symptoms and conditions to be treated are due solely to iron deficiency resulting from an inadequate intake of iron in the diet, and unless such advertisement discloses that such of the aforesaid symptoms and conditions to which the statements thereof may relate are caused less frequently by anemia due to a simple deficiency of iron in the diet than by other causes and that when such symptoms and conditions are due to other causes this preparation will not be effective in relieving or correcting them.

(c) That said preparation does not contain drugs or influences health without the use of drugs.

(d) That said preparation contains the same minerals in therapeutic amounts as are found in mineral waters of well-known mineral springs, or that its use will produce the benefits ordinarily ascribed to the use of such mineral waters.

(e) That said preparation keeps the colon free from waste matter, or that black stools and apparent impurities in the urine demonstrate the value of respondent's product in eliminating waste.

(f) That any percentage or number of persons are suffering from nutritional mineral-iron anemia unless such statement is based on authoritative and reliable medical statistics.

(g) That said preparation will restore health to all persons who may suffer from ill health.

(2) Disseminating or causing to be disseminated by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of said product in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph (1) hereof.

*It is further ordered*, That the respondent, Nicholas Sage, shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Issued: June 14, 1950.

By the Commission.

[SEAL]

D. C. DANIEL,  
Secretary.

[F. R. Doc. 50-7013; Filed, Aug. 10, 1950; 8:47 a. m.]

## TITLE 32—NATIONAL DEFENSE

### Chapter IV—Joint Regulations of the Armed Forces

#### Subchapter D—Military Renegotiation Regulations

#### PART 423—DETERMINATION OF RENEGOTIABLE BUSINESS AND COSTS

##### GENERAL CLASSES OR TYPES OF EXEMPTED CONTRACTS AND SUBCONTRACTS

Amendment 4 to Appendix A to Subpart E of Part 423.

Section 423.354, Appendix A (15 F. R. 170, 2417, 4717, 4942) hereby is amended, by the amendment of the following item:

6. *Collateral items*—(a) *Exemption*. All subcontracts for:

(1) The sale, furnishing, or installation, of machinery, equipment or materials used in the processing of an end product or of an article incorporated therein; provided such machinery, equipment, or materials do not become a part of such end product or of an article incorporated therein.

(2) The sale, furnishing, or installation, of machinery used in the processing of other machinery to be used in the processing of an end-product or of an article incorporated therein.

(3) The sale, furnishing, or installation of component parts of, or subassemblies for, machinery included in (2) above, and machinery, equipment and materials included in (1) above.

(4) The performance of services directly required for the performance of subcontracts included in (1), (2) and (3) above.

As used herein the phrase "used in processing" has the same meaning as that set forth in § 423.333-3 of the Military Renegotiation Regulations.

(b) *Limitations on exemptions*. This exemption does not apply to subcontracts subject to the Renegotiation Act of 1948, under contracts entered into on or after October 1, 1950.

This exemption does not apply to subcontracts where the purchaser of such machinery, equipment, or materials, has acquired them for the account of the Government. As used herein the phrase "acquired them for the accounts of the Government" means acquired pursuant to an arrangement between the Government and the purchaser of such machinery, equipment, or materials, whereby title to such machinery, equipment, or materials will, or may, at the option of the Government, vest in the Government.

(Sec. 3, 62 Stat. 259; 50 U. S. C. App. Sup. 1193)

Adopted by the Board: August 4, 1950.

FRANK L. ROBERTS,  
Chairman, Military Renegotiation Policy and Review Board.

[F. R. Doc. 50-7029; Filed, Aug. 10, 1950; 8:50 a. m.]

[Amdt. 8]

#### PART 428—STATUTES, ORDERS AND DIRECTIVES

##### MISCELLANEOUS AMENDMENTS

1. The following amendment is made to Subpart B of Part 428 of this subchapter by adding the following new section:

§ 428.824 *Executive Order 10076 by the President of the United States, Sep-*

tember 1, 1949: *Inspection of Income, Excess-Profits, and Declared Value Excess-Profits Tax Returns by the Military Renegotiation Policy and Review Board.* By virtue of the authority vested in me by sections 55 (a) 508, 603 and 729 (a) of the Internal Revenue Code (53 Stat. 29, 111, 54 Stat. 974, 989; 26 U. S. C. 55 (a) 508, 603, and 729 (a)) and in the interest of the internal management of the Government, it is hereby ordered that income, excess-profits, and declared value excess-profits tax returns made under the Internal Revenue Code for the year 1939 and subsequent years shall be open for inspection by the Military Renegotiation Policy and Review Board, subject to the conditions stated in the Treasury decision relating to the inspection of returns by such Board, approved by me this day.

Adopted by the Board: April 21, 1950.

2. The following amendment is made to Subpart D of Part 428 of this subchapter, designated as § 428.841 (heretofore reserved) as follows:

§ 428.841 *Raw materials exemption.* The Military Renegotiation Policy and Review Board has determined that contracts and subcontracts for any of the products on the following list are exempt from renegotiation pursuant to the provisions of subsection (i) (1) (B) of the Renegotiation Act of February 25, 1944, as amended, adopted by reference by section (d) of the 1948 Act. See § 423.-343-1.

NOTE: This list may be modified from time to time.

Aggregates; crushed stone; gravel; sand, including industrial sand.

Alumina; aluminum ingots and pigs.

Bauxite, crude; calcined or dried bauxite; bauxite abrasive grains.

Coal, prepared; run of mine coal.

Copper ore, crude; copper ore, concentrated; copper matte; blister copper; copper billets, cathodes, cakes, ingots, ingot bars, slabs and wire bars.

Gas, natural, not processed or treated further than the processing or treating customarily occurring at or near the well.

Iron ore, crude, pig iron.

Lead ore; refined lead bars, ingots and pigs; antimonial lead bars, ingots and pigs.

Monel ore; monel matte; monel ingots; pigs and shot produced from monel matte.

Natural gasoline; residue gas.

Nickel ore and concentrates; nickel-matte; nickel oxide including nickel oxide sinter; nickel ingots, cathodes and shot.

Oil, crude.

(Sec. 3, 62 Stat. 259; 50 U. S. C. App. Sup., 1193)

Adopted by the Board: June 22, July 20, 1950.

FRANK L. ROBERTS,  
Chairman, Military Renegotiation Policy and Review Board.

Approved: August 2, 1950.

LOUIS JOHNSON,  
Secretary of Defense.

[F. R. Doc. 50-7030; Filed, Aug. 10, 1950; 8:50 a. m.]

## Chapter VII—Department of the Air Force

### PART 823—USE OF UNITED STATES AIR FORCE BASES OVERSEAS BY CIVIL AIRCRAFT (DOMESTIC OR FOREIGN)

#### PART 861—OFFICERS' RESERVE

##### SALES; ELIGIBILITY

1. Paragraph (c) of § 823.13 is amended as follows:

§ 823.13 *Sales.* \* \* \*

(c) *Advance deposits.* In lieu of cash payments as provided in paragraph (a) of this section, commanding generals of oversea air commands are authorized to contract with the civil air operators, after issuance of Air Force Form 33, for fees and charges under § 823.12. This contract may be entered into at the discretion of the oversea air commander and will provide for refundable advance deposits (the amount of which will be determined with the civil air operator, but in no event will it exceed the estimated requirements for fees and charges during the ensuing three-month period) to be held on deposit from the contracting officer by the local finance officer in special deposits.

[AFR 55-20A] (Sec. 5, 44, Stat. 570 as amended; 49 U. S. C. 175)

2. Paragraphs (a) (5) and (b) (2) of § 861.153 are amended as follows:

§ 861.153 *Eligibility*—(a) *Requirements common to all applicants.* An applicant submitting an application for Regular appointment in one of the corps of the Medical Service, United States Air Force, listed in § 861.151, must:

(5) Not be nor have been a conscientious objector.

(b) *Specific requirements.* \* \* \*

(2) *Medical Service Corps.* Each applicant must: (i) Have reached his 21st birthday, but not have passed his 30th birthday on the date of his appointment in the Regular component, except that any person who served in the Armed Forces of the United States prior to September 2, 1945, and is qualified for three years additional service credit as provided in § 361.154 (b) (1) by possessing a doctor of philosophy or comparable degree acceptable to The Surgeon General, United States Air Force, in a science allied to medicine, may apply. *Provided*, That he does not exceed his 33d birthday on the date of his appointment in the Regular component. Further, an applicant's age may exceed 30 or 33 years whichever is appropriate on the date of appointment by the number of days, months, and years of active commissioned service performed in the Army or the Air Force of the United States, or any of their components, after December 31, 1947, but not to exceed five years.

(ii) Have completed a minimum of 60 semester hours (90 quarter hours) credit toward a baccalaureate degree from a college or university accredited by National or regional accrediting associations or have successfully completed the

Educational Qualification Test 20X as of date of application. (A transcript of all college and/or university credits or a certificate of satisfactory completion of the Educational Qualification Test 20X will be attached to the application.)

[AFR 30-31A] (Sec. 167, 61 Stat. 726; 10 U. S. C. Sup. 156a. Interprets or applies secs. 163, 165, 61 Stat. 735; 10 U. S. C. Sup. 156c, 156e, d)

[SEAL]

L. L. JUDIE,  
Colonel, U. S. Air Force,  
Air Adjutant General.

[F. R. Doc. 50-6593; Filed, Aug. 10, 1950; 8:45 a. m.]

## TITLE 41—PUBLIC CONTRACTS

### Chapter III—Committee on Purchases of Blind-Made Products

#### PART 301—PURCHASES OF BLIND-MADE PRODUCTS

The regulations in this part are revised to read as follows:

Sec.

301.1 Definitions.

301.2 National Industries for the Blind designated.

301.3 Federal Supply Service to coordinate.

301.4 Schedule of Blind-Made Products.

301.5 Purchase procedure.

301.6 Clearances.

301.7 Agencies for the blind; restrictions.

301.8 Reports.

AUTHORITY: §§ 301.1 to 301.8 issued under sec. 2, 62 Stat. 1196; 41 U. S. C. 47.

§ 301.1 *Definitions.* As used in this part:

(a) "Blind" means a person having visual acuity not to exceed 20/200 in the better eye with correcting lenses; or visual acuity greater than 20/200 but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(b) "Non-profit-making agency for the blind" (hereinafter referred to as "agency for the blind") means any organization operated in the interest of the blind, the net income of which does not inure in whole or in part to the benefit of any shareholder or individual, as established by affidavits filed with National Industries for the Blind.

(c) "Ordering office" means any Executive department, independent establishment, board, commission, bureau, service, or division of the United States, and any corporation, all the stock of which is beneficially owned by the United States.

§ 301.2 *National Industries for the Blind designated.* National Industries for the Blind hereinafter referred to as "National Industries" is designated as the agency to facilitate the distribution of orders among the agencies for the blind. National Industries shall maintain a record of all non-profit-making agencies for the blind organized under the laws of the United States or of any State, and statistical data showing their respective quantity production of the commodities specified in the Schedule of Blind-Made Products available for

sale to ordering offices, so that the orders may be equitably allocated among such agencies for the blind.

§ 301.3 *Federal Supply Service to coordinate.* The Federal Supply Service of the General Services Administration is designated, to the extent agreed, to coordinate purchases by ordering offices of the blind-made commodities specified by the Committee on Purchases of Blind-made Products (hereinafter referred to as the "Committee")

§ 301.4 *Schedule of Blind-made products.* The Committee will issue to ordering offices, through the Federal Supply Service, a Schedule of Blind-made Products (hereinafter referred to as the "Schedule") setting forth data concerning blind-made commodities to be purchased.

§ 301.5 *Purchase procedure.* Any ordering office requiring a commodity listed in the Schedule shall notify the Federal Supply Service, which will arrange to furnish the requirement from stock or otherwise under its usual procedure. National Industries shall determine whether any agency for the blind is in a position to produce the requirement and will allocate orders equitably among available agencies for the blind.

§ 301.6 *Clearances.* (a) The Federal Supply Service may grant clearance to any ordering office to purchase from

commercial sources any item listed in the Schedule (1) when necessary to meet emergency requirements, or (2) no agency for the blind is in a position to furnish the requirement.

(b) Any ordering office may purchase from commercial sources any items listed in the Schedule to meet requirements (1) of military necessity which require delivery within two weeks, (2) that are less than a single unit, or (3) that are for use outside continental United States.

§ 301.7 *Agencies for the blind, restrictions.* (a) No commodity listed in the Schedule shall be delivered by an agency for the blind under this program unless (1) at least 75 percent of the direct labor of production of such commodity, including preparation of material, processing and packing, shall have been performed by the blind in producing the commodity, and (2) such commodity or one involving similar manufacturing processes shall have been produced and sold to any buyer by the particular agency for the blind for at least six months prior to delivery.

(b) Each agency for the blind shall keep on file an eye record card containing information that will establish whether a person employed in the production of commodities listed in the Schedule is blind as defined in § 301.1 (a). Copies of these cards shall also be filed with National Industries.

(c) As a prerequisite to participation in such Government orders, each agency for the blind shall file with National Industries copies of its certificate of incorporation, constitution and bylaws, or other instruments of similar import, showing its authority and permitted activities.

(d) Each agency for the blind participating in such Government orders shall maintain an accounting system, and not less often than once each year shall prepare a financial report and operating statement that accurately reflects its operations. Operating statements shall show as a separate item the amount of wages paid to blind employees. Books and records shall be made available for inspection at any time to representatives of National Industries or the Committee.

(e) No allocation of Government orders shall be made by National Industries to any agency for the blind not operating in accordance with this part.

§ 301.8 *Reports.* The Federal Supply Service shall submit quarterly to the Committee a report on the operation of the program. National Industries shall submit to the Federal Supply Service such reports on its activities as may be requested.

ROBT. LEFEVRE,  
Secretary.

AUGUST 8, 1950.

[F. R. Doc. 50-7015; Filed, Aug. 10, 1950; 8:47 a. m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF AGRICULTURE

#### Production and Marketing Administration

#### [7 CFR, Part 917]

[Docket No. AO-218]

#### HANDLING OF IRISH POTATOES GROWN IN WYOMING AND WESTERN NEBRASKA

#### NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPT- IONS WITH RESPECT TO PROPOSED MARK- ETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed marketing order regulating the handling of Irish potatoes grown in the Counties of Goshen, Laramie, Platte, Albany, Converse, Niobrara, Natrona, Johnson, Sheridan, Washakie, Big Horn, Park, Hot Springs, and Fremont in the State of Wyoming and in the counties of Sioux, Scotts Bluff, Banner, Kimball, Cheyenne, Morrill, Box Butte, Dawes, Sheridan, Garden, Deuel, Keith, and Lincoln in the State of Nebraska, to be effective

pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051) hereinafter called the "act." Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1353 South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the tenth day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

*Preliminary statement.* The public hearing, on the record of which the proposed marketing agreement and the proposed marketing order (hereinafter called the "order") were formulated, was held at Torrington, Wyoming, on May 4-6, 1950, pursuant to notice thereof which was published in the FEDERAL REGISTER (15 F. R. 2141). Such notice set forth a proposed marketing agreement and order which was submitted to the Secretary of Agriculture by growers and shippers of Irish potatoes in Wyoming and Western Nebraska, as represented by the PMA Committees and the potato advisory committees of the respective States, with a petition for a hearing thereon.

*Material issues.* The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction;

(2) The need of the proposed regulatory program to accomplish the declared objectives of the act;

(3) The identity of the persons and transactions to be regulated;

(4) The definition of the commodity and determination of the smallest regional production area to be affected by the proposed regulatory program;

(5) The specific terms and provisions of the proposed marketing agreement and order necessary and incidental to attain the declared objectives of the act, including, among others, those applicable to:

(a) The establishment, maintenance, composition, powers, duties, and operation of the administrative agency;

(b) The method for limiting shipments of Irish potatoes grown in the production area;

(c) The establishment of minimum standards of quality and maturity;

(d) The handling under special regulations, under certain circumstances, and the procedure applicable thereto, of specified shipments of Irish potatoes grown in the production area;

(e) The relaxation of regulations in hardship cases and the procedure applicable thereto; and

(f) The requirement that all handling of Irish potatoes grown in the production area must be in accordance with the pro-

visions of the marketing agreement and order, and that inspection and certification of shipments of such potatoes and the payment of assessments must be accomplished in connection therewith.

**Findings and conclusions.** The findings and conclusions on the aforementioned material issues, all of which are based on the evidence introduced at the hearing on the record thereof, are as follows:

(1) A substantial percentage of the Irish potatoes grown in the Counties of Goshen, Laramie, Platte, Albany, Converse, Niobrara, Natrona, Johnson, Sheridan, Washakie, Big Horn, Park, Hot Springs, and Freemont in the State of Wyoming and the counties of Sioux, Scotts Bluff, Banner, Kimball, Cheyenne, Morrill, Box Butte, Daves, Sheridan, Garden, Deuel, Keith, and Lincoln in the State of Nebraska, hereinafter called the "production area" normally enters the current of interstate or foreign commerce, and virtually all of the remainder of such potatoes are consumed as table stock or seed potatoes within the production area, or the States of Nebraska and Wyoming, respectively, or are used for so-called diversionary purposes. The market for potatoes grown in the production area is regional in scope and prices for such potatoes at markets both within and outside the States of Nebraska and Wyoming are closely related to each other and to f. o. b. shipping point prices in the production area. Every movement and sale of such potatoes, whether to a market within or outside of the State of Nebraska or the State of Wyoming affects the price structure for all potatoes grown in the production area.

Such movements and sales of potatoes grown in the production area may be scheduled originally for delivery to markets within the production area, the State of Nebraska, or the State of Wyoming and then be diverted en route to markets outside of the production area, the State of Wyoming, or the State of Nebraska. Conversely, such potatoes, destined originally for market outside of the production area, the State of Wyoming, or the State of Nebraska, may be diverted en route to markets within the production area or the respective States. The movement and sale of such potatoes to markets within the production area, to markets within the States of Nebraska and Wyoming, and to markets outside of the States of Nebraska and Wyoming are, therefore, inextricably intermingled.

It is concluded, therefore, that (i) all transportation and sale (except retail sales) of Irish potatoes grown in the production area are either in the current of interstate or foreign commerce, or directly burden, obstruct, or affect such interstate or foreign commerce (hereinafter called "in commerce") and (ii) it is impractical to regulate effectively the transportation and sale of such potatoes without regulating all transportation and sale thereof, except to the extent hereinafter indicated.

(2) Effective January 1, 1950, parity prices for Irish potatoes are to be computed in accordance with the provisions of the Agricultural Act of 1948 and the Agricultural Act of 1949.

Seasonal average farm prices (potatoes grown in the proposed production area) have been below the applicable levels for 17 seasons and above such levels for 4 seasons since 1928. Two of the 4 seasons (1943, 1944) when such prices were above parity were war years. Such prices have been below parity during the 1945-48 seasons, inclusive. The 1949 seasonal average farm price for potatoes grown in the proposed production area is \$1.31 per bushel, which is only 76 percent of the applicable parity price for such potatoes.

In view of the seasonal average farm prices for the commercial crops of potatoes in the production area having been below parity in most of the past 21 seasons, the seasonal average farm prices for the 1949 crop of such potatoes having been 26 percent below parity, the indicated 1950 acreage of potatoes in Wyoming and Nebraska being approximately the same as in 1949, and the current level of price support for potatoes, it is anticipated that the seasonal average farm price received by growers in the production area for potatoes produced in 1950 will not exceed the prescribed parity level.

The availability of supplies of Irish potatoes in excess of all market demand therefor tends to decrease the grower's average returns from all of such potatoes. Withholding the poorer grades and undesirable qualities and sizes of such potatoes from such markets tends to equalize market supply and the demand therefor, and tends to increase the growers' average returns for all Irish potatoes. Poor grades, undesirable qualities, and undesirable sizes of Irish potatoes available for sale in wholesale markets sell at appreciable discounts from the sale price of the better grades and desirable qualities and sizes of such potatoes, and the former not only displace the latter to a considerable extent, but the former give poor consumer satisfaction, resulting in an over-all decreased consumption of Irish potatoes. Grade, quality, and size discounts in wholesale prices of Irish potatoes are reflected in similar discounts in growers' returns therefor.

Therefore, it is concluded that a marketing agreement and order is necessary to regulate the transportation and sale of Irish potatoes grown in the production area, to establish and maintain such orderly marketing conditions therefor as will tend to establish parity prices for such potatoes. The marketing agreement and order should contain provisions for the establishment and maintenance of such minimum standards of quality and maturity and such grading and inspection requirements for Irish potatoes grown in the production area as will effectuate orderly marketing thereof in the public interest, because, even though prices received by farmers for such potatoes exceed parity, some potatoes of poor quality do not, under any circumstances, represent value to the consumers thereof, and the returns to the farmers therefrom are negligible.

(3) (a) The act authorizes the regulation of such handling of Irish potatoes grown in the production area as is in the current of interstate or foreign com-

merce, or which directly burdens, obstructs, or affects such commerce. The marketing agreement and order should regulate such handling solely to effectuate the declared policy of the act. It is essential, as a basis for such regulation, that the marketing agreement and order define a "handler" so that persons to be regulated thereunder will have notice thereof.

Common or contract carriers transporting Irish potatoes (grown in the production area and owned by another person) to market are performing a handling function in commerce but such handling should not be regulated under the marketing agreement and order for the reason that such carriers are not responsible for the grade, quality, and size of the commodity so transported, are not responsible for the introduction of such commodity in commerce, and their sole interest in such commodity is to transport it to destinations selected by others for a service charge. The responsibility for the grade, quality, and size of the commodity delivered to such common and contract carriers should be borne by the person or persons responsible for delivering such commodity to such carriers.

Other handling functions with respect to such potatoes, which should be regulated under the marketing agreement and order, are hereinafter considered in connection with a definition of "ship," and the definition of "handler" should be synonymous with "shipper" because regulation of the handler performing any of such functions is necessary under the marketing agreement and order to effectuate the declared policy of the act. Therefore, the term "handler" or "shipper" should be defined to mean any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes.

(b) Processing activities (such as storing, washing, grading, and packing) with respect to Irish potatoes are handling functions in commerce. However, it would be impracticable, if not impossible, to require persons engaged in such activities to meet grade, quality, and size requirements, under regulations issued pursuant to the marketing agreement and order, prior thereto except as hereinafter indicated. Therefore, such handling activities should be exempt from regulation under the marketing agreement and order. Such exemption should be limited to storing, washing, packing, grading, and other preparatory handling functions accomplished in the production area because such activities are customarily accomplished therein. After the grading has been accomplished in connection with such potatoes, the handling activity of transporting them to market should be subject to regulation, under the marketing agreement and order, because the grade, quality, and size of such potatoes are determined by the grading process accomplished prior to such transportation and such transportation in commerce can then be limited, on a practical basis, to such grades, qualities, and sizes of such potatoes as will tend to effectuate the declared policy of the act.

Sales of Irish potatoes, grown in the production area, in commerce are han-



dling transactions which should be subject to regulation under the marketing agreement and order because such sales are generally made on the basis of grades, qualities, and sizes, or combinations thereof; and because such sales introduce or continue such potatoes in commerce. Therefore, if such sellers fail to meet the requirements of regulations issued under the marketing agreement and order they should be responsible, except as hereinafter indicated, for such introduction or continuation of the potatoes in commerce. However, if any person sells potatoes to a recognized packer in the production area on a field run, cellar run, or grade-out basis, for storing, or market preparation, therein, such sale by the producer should not constitute a handling transaction in commerce, subject to regulation. Under such state of facts, the sale to the recognized packer does not place the potatoes in commerce and the customary contemplation of the parties is that, prior to their introduction in commerce, the potatoes will be prepared as aforesaid for market. Similarly, the transportation of ungraded potatoes within the production area for storing such commodity therein should not constitute a handling transaction in commerce subject to regulation. It is necessary to restrict the scope of this producer-packer sale to packers operating processing facilities in the production area because such restriction conforms to customary practice therein.

However, if a producer of Irish potatoes, grown in the production area, sells such potatoes grown by him to an itinerant trucker, or any other person, for transportation to market without prior processing, such potatoes are thereby placed in commerce at the time of such sale and the producer, under such circumstances, is the first handler of such potatoes. It may be assumed, under such circumstances, that the producer intended that the potatoes would be placed in commerce at the time of such sale and, therefore, he should be held responsible for any failure of the commodity so sold to meet such grade, quality and size requirements as might be in effect under the marketing agreement and order at the time of such sale.

Irish potatoes grown in the production area and consigned or otherwise placed in commerce should be considered in the same category as potatoes sold in commerce because the former activities are merely different methods of selling potatoes. Such potatoes should also meet the minimum grade, quality, and size requirements in effect under the marketing agreement and order at the time they are so introduced into commerce to effectuate the declared policy of the act. The consignor or individual otherwise placing such potatoes in commerce should, therefore, be subject to regulation.

Irish potatoes grown in the production area are frequently transported, sold, or otherwise placed or continued in commerce by more than one person. Each of such persons is responsible for introducing or continuing such potatoes in commerce and, therefore, each of such persons should be required to conduct

such handling activities in accordance with applicable grade, quality, and size regulations, under the marketing agreement and order to effectuate the declared policy of the act.

It is concluded, therefore, that "ship" should be defined in the marketing agreement and order to include and be applicable to all of the handling functions which must be subject to regulation to effectuate the declared policy of the act, that such definitions should be synonymous with "handle" and that "ship" should mean to transport, sell, or in any way to place potatoes in the current of commerce within the production area, or between the production area and any point outside thereof: *Provided*, That the definition of "ship" or "handle" shall not include or be applicable to the sale or transportation of ungraded potatoes within the production area for storing therein, or the sale or transportation within the production area of potatoes to a recognized packer for the purpose of having such potatoes prepared therein for market.

(4) (a) It is necessary to define the commodity to be regulated by the marketing agreement and order, so that persons handling such commodity will know that their handling activities relevant thereto are subject to regulation thereunder. The act authorizes marketing agreements and orders applicable to potatoes, or to any regional or market classification thereof. Irish potatoes of all varieties grown in the production area is a regional classification of potatoes and regulation of the handling thereof will tend to effectuate the declared policy of the act. It is concluded, therefore, that "potatoes" should be defined to mean all varieties of Irish potatoes grown in the production area.

(b) A definition of "production area" is incorporated in the marketing agreement and order to specify and delineate the area in which potatoes must be grown before the handling thereof is subject to regulation. The proposed production area, set forth in the notice of hearing, included designated counties in the State of Nebraska and all of the State of Wyoming. Certain counties of Wyoming should, however, be excluded from the production area because no commercial potato production exists therein. These are the counties of Teton, Sublette, Lincoln, Uinta, Sweetwater, Carbon, Campbell, Weston, and Crook. The area comprising Yellowstone National Park in Wyoming should be excluded for the same reason. The remainder of the State of Wyoming, which should be designated as a part of the production area, comprises a contiguous area and one in which the conditions and methods of producing and marketing potatoes are reasonably similar. It would be impractical to exclude any of this Wyoming territory from the production area because the most important potato producing areas in Wyoming lie along the Wyoming-Nebraska border and adjacent to important potato producing areas in Nebraska. Also, the producing and marketing conditions and methods throughout the entire composite area are similar.

In addition, it is a customary practice whereby potatoes purchased in Wyoming

are moved into Nebraska for processing. Such potatoes produced in Wyoming are of the same varieties as are produced in the Nebraska portion of the production area and it would be impossible to determine in a given case whether such potatoes were produced in Wyoming or in Nebraska. Therefore, if either the Wyoming portion, or the Nebraska portion, or any subdivision thereof, were excluded from the production area, enforcement and operation of a marketing agreement and order in the remaining portion would be unreasonably difficult and impractical.

Such differences in production and marketing conditions and methods as do exist within the production area as hereafter defined are not of such magnitude as should justify, on the basis of reasons stated herein, the exclusion of any portion of the production area from regulation under the marketing agreement and order. The same or similar varieties of potatoes are grown throughout the production area and potatoes from each part thereof compete in markets both within and outside the area during each season. Therefore, the production area, hereinafter defined, constitutes the smallest practicable regional production area.

(5) It is necessary to define the terms hereinafter set forth, so that their applicability and meaning may be established and to preclude the necessity for redefining them when they are later used in the marketing agreement and order. The definitions of Secretary, act, person, producer, and varieties, as set forth in the notice of hearing, were not in controversy at the hearing. These terms are generally understood by members of the potato industry in the production area and the use of such terms in the marketing agreement and order is essential as the basic framework thereof.

A definition of "fiscal year" is incorporated in the marketing agreement and order to establish the beginning and end of an operating period. The establishment of such period, which should comprise a full twelve months, is necessary for businesslike administration of the marketing agreement and order and is desirable as a basis for establishing the terms of office of committee members and alternates. The date marking the end of one fiscal year and the beginning of the next should fall at a time of relative inactivity in the marketing of the potato crop and should allow sufficient time for the committee to organize and to be prepared to function prior to the start of the new marketing season. Marketing of such crop extends from about September 15 of each year to about May 1 of the following year. June 1 is a time of minimum activity in the marketing of the potato crop grown in the production area and such date is approximately three months prior to the beginning of the harvest season. Such date is, therefore, an appropriate time for the conclusion of one fiscal year and the beginning of the next. Fiscal year should be defined, therefore, as hereinafter set forth.

Definitions of "Administrative Committee," and "marketing committee" are incorporated in the marketing agreement and order to identify the admin-

istrative bodies which are to act as the agencies of the Secretary. Such committees are authorized by the act, and the definition thereof, as hereinafter set forth, minimizes the use of words in the marketing agreement and order.

Definitions of "seed potatoes" and "table stock potatoes," are incorporated in the marketing agreement and order because regulation is provided, under certain circumstances, differently for each. Special regulation for seed potatoes is justified because such potatoes are produced for a specialized use and the requirements of the seed market differ, in some respects, from that of the table stock market. For example, potatoes of small size are ordinarily discounted in the table stock market but may bring a premium in the seed market. The term "seed potatoes" should be defined to include such potatoes as are certified, tagged or otherwise appropriately identified by the official seed certifying agency of the State of Nebraska or Wyoming, or such other seed certifying agency as the Secretary may recognize. Table stock potatoes should be defined as all potatoes other than seed potatoes. The sum total of the table stock and seed potatoes so defined will equal "potatoes," otherwise defined in the marketing agreement and order.

The definition of "pack" should include consumer packs which are prepared for ultimate sale by the retailer to the consumer in the original container. The definition also should include wholesale packs from which potatoes are normally dumped into bulk display bins at the retail store. In practice, the distinction between the two types of packs rests on the capacity of the container. While consumer packs for such potatoes are not commonly in use, nevertheless there is a growing interest in these types of packs. These usually consist of 5, 10, and 15-pound bags, while wholesale packs consist of 50 and 100 pound bags. The demarcation between consumer and wholesale packs should be drawn at a specified net weight content rather than by naming the individual container which should fall in the respective category. The possible introduction of containers differing in size from those now in use makes the latter approach impractical. This definition is intended to permit the administrative committee to describe various packs and to establish distinctions among packs upon the basis of weight, as aforesaid, so that different regulations may be established for such different packs. Pack should be defined, therefore, as hereinafter set forth.

Definitions of "grade" and "size" are incorporated in the marketing agreement and order to enable all persons affected thereby to determine the requirements thereof and to interpret specifically and intelligently regulations issued in such terms. Grade and size, the essential terms in which regulations may be issued, should be defined as comprehending the equivalents of the meanings assigned to these terms in the official standards for potatoes issued by the United States Department of Agriculture, or to amendment or modification or variation of such standards. Regu-

lations under the marketing agreement and order can then use such terms (grade and size) with the constant meaning assigned thereto in such standards, or amendment of such terms as may be effected through amendment of such standards, or such modification or variation of such terms as may be required at the time of regulation and spelled out in the regulation. Official inspectors are qualified to certify to the grade and size of potatoes, grown in the proposed production area, in terms of any one of the aforesaid standards, or amendments, modifications, or variations thereof.

A definition of "export" is incorporated in the marketing agreement and order because different regulations thereunder are authorized for export shipments than for domestic shipments. Export markets have certain requirements which differ from the domestic market and special regulations are, therefore, justified. Export should be defined to include all shipments of potatoes outside of the continental United States.

Definitions of "district" and "subdistrict" are incorporated in the proposed marketing agreement and order to delineate the geographical divisions of the production area for the purpose of electing nominees for membership on the marketing committees and for apportioning representation on the Administrative Committee. The production and marketing problems within each of the districts and subdistricts hereinafter established are similar and selection of committee members on such basis will afford equitable representation to all producers and handlers in the production area.

District and subdistrict should be defined, therefore, as hereinafter set forth.

(a) The marketing agreement and order should provide for the selection by the Secretary of an administrative committee, called the Wyoming-Western Nebraska Potato Committee and of a marketing committee for each district of the production area. Establishment of these committees is desirable and necessary to aid the Secretary in carrying out the declared policy of the act and such committees are authorized by the act.

Marketing committees for specific portions of the production area, with authority to recommend grade, size, and quality regulations for the portion in which it operates, will provide a basis for representation on such committees whereby potato producers affected by such regulations can have fair and equitable representation. The selection and establishment of an administrative committee from among marketing committee membership provides a central agency to carry out service functions and to coordinate the activities of the marketing committees.

Provision should be made for an alternate for each member of the committees because circumstances may arise when it is impossible for a member or members, to attend particular meetings of the committees and where positions are vacant because of death, resignation, or for other reasons. In such situations it

is necessary and desirable for the respective alternate to act in lieu of the member, so that there will be no interruption of committee operations and to assure that committee activities will be representative of producer and handler thinking in all districts and subdistricts of the production area. Such alternates should have the same qualifications as the members if the alternates are to represent the same industry interests as such members.

An administrative committee of six members, each of whom should be a member of a marketing committee, will be of sufficient size to permit it to operate in an efficient manner and to give all producers and handlers in the production area adequate representation in the conduct of administrative committee business.

Two 9-member marketing committees, each composed of 6 producers and 3 handlers, will provide potato growers and handlers in each district adequate and equitable representation on the marketing committees for such districts.

Producer members and alternates of a marketing committee selected to represent a subdistrict of the production area should be producers (or officers or employees thereof) in such subdistrict. Handler members and alternates of a marketing committee to represent handlers should be handlers (or officers or employees thereof) in such district. Persons with such qualifications will be intimately acquainted with the particular problems of producing and marketing potatoes grown in the subdistrict represented, in the case of producer members, and in the district represented, in the case of handler members, and for these reasons can be expected to present accurately the views, problems, and economic conditions of producers and handlers in such subdistricts and districts of the production area with respect to marketing committee actions.

A nomination procedure is provided in the marketing agreement and order to assure the Secretary that the names of appropriate prospective members and alternates of the committees will be brought to his attention. The nomination of prospective producer members and alternates of marketing committees by producers at meetings in the respective subdistricts and of prospective handler members and alternates by handlers at meetings in the respective districts is a practical method of providing the Secretary with names of such members and alternates. As soon as practical after a marketing committee organizes and begins operating during the term for which selected, such committee should meet for the purpose of nominating prospective successor producer members and handler members to serve on the administrative committee. Such nominees should be from among the members, including the respective alternates, of the marketing committee and reflect the aforesaid representation. The nomination by each marketing committee of prospective administrative committee members and alternates to represent each district is an appropriate means of providing the Secretary with the names of such members and alter-

nates. Such procedure will insure that the Secretary has available a list of nominees whose qualifications have been reviewed by and acted upon by members of the industry.

The Secretary may appropriately select initial marketing committee members and alternates from nominations made by producers, handlers or groups thereof. However, the administrative committee, the Wyoming-Western Nebraska Potato Committee, does not come into existence until selection by the Secretary of the initial members thereof; therefore, the marketing agreement and order should provide for the selection by the Secretary of said initial committees in the absence of nominations. Similarly, there should be authority for the Secretary to select the respective memberships of the marketing committees in the absence of nominations made in the aforesaid manner.

Nomination meetings for the purpose of nominating succeeding members of the marketing committees and their alternates should be held or caused to be held by the administrative committee prior to April 1 of each year. Such date is approximately sixty days prior to the end of the fiscal year. By holding, or causing to be held, nomination meetings prior to such date, the administrative committee would have adequate time to prepare and submit nominee lists to the Secretary in time for the Secretary to select the members and alternates of marketing committees to take office at the beginning of the new fiscal year, and, in the event a selectee declines to serve, for the Secretary to make another appointment.

At least two nominees should be designated for each position as member, and each position as alternate member, on the committees so that the Secretary will have a choice in making his selection and, in the event a selectee declines to serve, so that he will have the names of other prospective members or alternates from which to make another appointment.

Nominee lists should be supplied to the Secretary in the manner and form prescribed by him to establish administrative uniformity in the handling of such matters. Such nominations for positions on the marketing committees should be presented to the Secretary at least forty-five days prior to the end of the fiscal year so that the selection and qualification of marketing committee members and alternates for the new term of office which begins with the new fiscal year may be made prior to such date.

Except to the extent hereinafter indicated, each producer should be limited to one vote on behalf of himself, his agents, subsidiaries, affiliates, or representatives, in designating nominees for producer members and alternates of marketing committees regardless of the number of subdistricts in which he produces potatoes. Voting on any other basis would not provide for equitable representation. If a producer could cast more than one vote by reason of operating in more than one subdistrict, such producer would have an advantage in selecting nominees over producers operating in only one sub-

district. The producer who operates in more than one subdistrict should be required to elect the subdistrict in which he will vote for nominees for producer committee members and alternates. The one-vote limitation applies to each producer position to be filled at a nomination meeting. Each producer is allowed one vote for each such producer position as a marketing committee member and each such producer position as a marketing committee alternate to be filled at a nomination meeting.

Similar voting limitations and requirements (on a district basis, rather than a subdistrict basis) should be applied to handler participation in nominating handler committee members and alternates on marketing committees, for reasons similar to the application of such limitations and requirements to producer nominations of producer committee members and alternates. However, to maintain the distinctive handler and producer representative viewpoints of marketing committee members, each person who is a handler and also a producer should be required to elect the capacity in which he will participate in program activities.

In order that there will be administrative agencies in existence at all times to administer the marketing agreement and order, the Secretary should be allowed to select administrative and marketing committee members and alternates without regard to nominations if the committees, for any reason, fail to carry out the nomination procedures prescribed herein. Such selection, however, should be on the basis of the representation provided in the marketing agreement and order to insure that the entire production area is fairly and adequately represented.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of willingness and intention to serve in such capacity, so that the Secretary will have a means of determining if he intends to serve. This is sound operating procedure and is necessary and desirable to avoid delays in the composition of the committee. For this same reason, each member and alternate should file his acceptance within a definite time period after receiving notice of his selection. The ten-day period prescribed is reasonable for qualification and will not unduly retard composition of the committee.

Provision is made for the Secretary to fill any committee vacancies in order to maintain the committees in continuous operation. The marketing agreement and order provides several alternative procedures which may be followed by the Secretary in making such selections. The administrative flexibility thus prescribed is desirable so that the Secretary will not be forestalled in making such selections and so that he may choose the most practical of the alternative means of obtaining the names of qualified persons to fill such vacancies.

The term of office of administrative and marketing committee members and alternates, except for initial members and alternates, should be for two years. A two-year term is desirable so that

members and alternates will have adequate time to familiarize themselves with the operation of the program and thus be in a position to render the most effective service in assisting the Secretary in carrying out the declared policy of the act. A term of two years is also the minimum term that can be established if provision is to be made for staggered terms of office. A term of more than two years should not be established since producers and handlers should have an opportunity to vote for a change in their representation at more frequent intervals.

Provision is made in the marketing agreement and order for staggered terms of office of administrative and marketing committee members and alternates. Under this provision, approximately one-half of the administrative committee and each marketing committee in office at the end of a fiscal year will continue in office through the next fiscal year. The establishment of such staggered terms will promote administration of the program in the most effective and efficient manner. By having staggered terms of office, the new members and alternates selected to serve during a fiscal year will benefit from the guidance of the experienced members who carry over. This provision for continuation in office of experienced members will help insure continuity in the policies and procedures relating to the administration of the marketing agreement and order. Such continuity is an essential ingredient in the successful administration of the marketing agreement and order.

To facilitate the establishment of staggered terms of office, the marketing agreement and order provide that the terms of office of a majority of the members and alternates of the initial administrative committee and marketing committees shall be for one year. Such provision is fair and equitable and will permit the establishment, on a practical basis, of committees with the members and alternates thereon holding office for staggered terms.

A quorum of the administrative committee should consist of four members and four concurring votes should be necessary for passing any motion or approving any action of the administrative committee. A quorum of a marketing committee should consist of five members and five concurring votes should be necessary for passing any motion or approving any action of such marketing committee. These requirements are reasonable and are necessary to insure that any action of the committees reflects a majority of the views presented.

Only members present at an assembled meeting of a committee, and alternate members acting for members, should be entitled to vote. This requirement will encourage greater attendance at meetings and will promote fuller discussion of committee actions. Provision is made for meetings of the committees by telephone, telegraph, or other means of communication, to meet practical situations where rapid decision with respect to committee actions is necessary. Such emergency situations occur quite frequently in the marketing of potatoes grown in the production area. Any votes cast at such meetings should be

promptly confirmed in writing to provide a record of the action taken.

The apportionment and selection of producer members and alternate members of the marketing committee by sub-districts in the manner set forth in the marketing agreement and order will provide fair and equitable representation of all producers in the production area. The representation provided gives weight, on as fair and reasonable a basis as possible, to the various factors, such as acreage, number of producers, size of district and subdistrict, and variation in producing and marketing conditions, necessary to establish assurance of a fair and equitable representation of all portions of the production area on the committee.

Compensation at not to exceed the rate prescribed herein will offset, to some extent, the losses which such members and alternates will sustain through committee service.

Administrative and marketing committee members and alternates should be reimbursed for expenses necessarily incurred when acting on committee business and should be compensated at a rate of not to exceed \$10.00 per day, or portion thereof, for such service. Since such members and alternates will be serving in the interest of the potato industry in the production area, they should not be required to bear such reasonable expenses as they incur in attending to committee business.

The powers of the committees, as set forth in the notice of hearing, should be granted to the committees because such powers are authorized by the act and are essential to the committees in order for them to discharge their responsibilities under the marketing agreement and order.

The administrative committee should perform each and all of the duties set forth in the notice of hearing because such duties are necessary and essential to the accomplishment of the declared policy of the act and for the administrative committee to discharge its obligations to the Secretary. These duties are similar to duties given to other administrative committees under other marketing agreement and order programs. The marketing committees should be assigned each and all of the duties set forth in the marketing agreement and order to assist the administrative committee and the Secretary in operating the program and in carrying out the declared policy of the act.

(b) The declared policy of the act is to establish and maintain such orderly marketing conditions for potatoes, among other commodities, as will tend to establish parity prices for such potatoes. The regulation of shipments of potatoes by grade, size, or quality, authorized in the marketing agreement and order, provides a means of carrying out such policy.

The procedures which are outlined in the marketing agreement and order for the development and institution of marketing policies relating to grade, size, or quality regulations provide a practical basis for the committees to obtain appropriate and adequate information regarding marketing problems. In turn,

members of the industry are also provided an appropriate and adequate means of being informed regarding the policies and regulations the committees recommend and, if issued, the regulations that are effective. The factors which the committees should take into consideration in developing marketing policies are the ones commonly or usually taken into account by growers and handlers in marketing potatoes.

In order that the Secretary may most effectively carry out his responsibilities in connection with the marketing agreement and order, it is provided that each marketing committee should prepare and submit to the Secretary a report on its proposed policy, or amendments thereto, for the marketing of potatoes produced in the district served by such committee during each fiscal year. Further provision should be made for each marketing committee to make available the contents of such reports to producers and handlers in the production area, to the administrative committee, and to the Secretary.

In developing a proposed policy for the marketing of potatoes it is provided that the committees shall investigate enumerated relevant factors of supply and demand for potatoes. This requirement is necessary so that the marketing committees will be in the best position to adopt sound and practical recommendations for regulation and to advise the Secretary with respect to such supply and demand conditions. Each marketing committee will be well qualified to determine marketing conditions for potatoes produced in the district which it serves and to recommend specific regulations which will tend to effectuate the declared policy of the act.

The limitation of shipments of the poorer grades, qualities, and less desirable sizes of potatoes grown in the production area will tend to increase the prices of the more desirable grades, qualities, and sizes, and to increase the returns to producers therefrom. Less desirable sizes include not only small potatoes (other than seed potatoes) but also excessively large potatoes. Such limitation of shipments will also help to improve the long-run demand for and competitive position of potatoes grown in the production area.

It is a necessary and desirable exercise of the authority granted by the act for each marketing committee to recommend, and the Secretary to establish, grade, size, or quality regulations for any or all portions of the production area, and different grade, size, or quality regulations for different packs, for different time periods within the shipping season, for different varieties, or any combination of the foregoing, all with respect to potatoes grown in the district served by such committee. Such administrative flexibility is needed in the marketing agreement and order to effectuate the declared policy of the act through the issuance of appropriate regulations adapted to different and changing circumstances encountered in the marketing of potatoes.

Authority to issue different regulations applicable to different portions of the production area is necessary because a

particular portion or portions of such area may have adverse growing conditions which cause an abnormally high percentage of the potatoes grown therein to fall within restricted grades, sizes, or qualities. To meet the administrative problems that would arise from a situation of this kind and to provide fair and equitable regulation of all shipments of potatoes grown in the production area, it would be appropriate to establish a less restrictive regulation applicable to such affected portion or portions of the area.

Supply and demand conditions for potatoes are subject to frequent and substantial changes during the course of a particular marketing season. For this reason, it is absolutely essential that the marketing committees have authority to recommend different regulations at any time during the season in order to carry out the declared policy of the act.

Different regulations should be authorized for different varieties of potatoes because varieties differ in particular characteristics such as shape and in susceptibility to certain defects. For these reasons, an appropriate grade and size regulation for one variety may not be appropriate for another. Moreover, a new variety may be introduced in the area which should be regulated differently than the varieties now being grown.

It is necessary to provide for different regulations, under appropriate circumstances, for different packs of potatoes to improve and maintain consumer acceptance for potatoes grown in the production area. For example, it may be desirable to establish different regulations for consumer packs than for wholesale packs. Consumer packs of potatoes require different size composition than wholesale packs; authority should be provided, therefore, to establish regulations with respect to minimum or maximum sizes of potatoes, or both, differently for consumer packs than for wholesale packs. Consumer acceptance of potatoes is more adversely affected by inferior grades and undesirable sizes in consumer packs than in wholesale packs. In the case of consumer packs, the consumer accepts the package relatively "sight unseen" and does not have an adequate opportunity to make a selection of individual potatoes. The consumer, however, can make the desired selection from bulk displays made up by dumping the contents of wholesale packs into a bin. Consumers demand a better and more uniform grade, size, and quality of potatoes in consumer packs than in wholesale packs and failure to maintain such grade, size, and quality in consumer packs will disproportionately decrease the total returns of growers of potatoes in the production area.

The Secretary, upon the recommendation of a marketing committee, or other available information, should be authorized to modify, suspend, or terminate grade, size, or quality regulations with respect to shipments of potatoes, grown in the district served by such committee, outside of the normal commercial markets for table stock potatoes. Each marketing committee should be well qualified, because of the experience and knowledge of individual members, to recommend



such modifications, suspensions, or terminations as will be in the best interests of the potato industry in the district which it serves and which will tend to effectuate the declared policy of the act. Potatoes which otherwise could not be marketed under the regulations would tend to increase the total returns of potato growers in the production area if shipped to the noncompetitive outlets hereinafter set forth.

In the notice of hearing provision was made to treat shipments of potatoes for grading or storing within the production area as a special shipment to be subject to modified regulation, or with respect to which regulations could be suspended or terminated. Inasmuch as the sale or transportation of potatoes prior to storage or the grading thereof is excluded from the definition of ship there is no occasion or need to permit special treatment of such shipments.

The nature of the demand for seed potatoes differs from the demand for table stock in that small sizes are preferred for seed, whereas the same sizes are discounted in the table stock market. However, certain characteristics which constitute grade defects in table stock potatoes do not necessarily detract from the value of seed potatoes. It is desirable, in order to promote more orderly marketing conditions for potatoes, to authorize the committee to recommend, and the Secretary to modify, grade, size, or quality regulations with respect to seed potatoes, or to suspend or terminate regulations relating to such seed shipments.

Although export outlets are not now an important factor in the demand for potatoes grown in the production area, they may assume greater importance in the future. In the event any export markets offer premium prices for certain grades, sizes, or qualities of potatoes which usually sell at a discount in the domestic market, it would be desirable that authority be provided for each marketing committee to recommend, and the Secretary to establish, modifications, suspensions, or terminations of regulations applicable to export shipments. Such shipments to export would tend to increase returns to producers in the production area and result in added increment to the value of the crop, thereby tending to effectuate the declared policy of the act.

Substantial shipments of potatoes to the Federal Government have been made in recent years in carrying out price support obligations administered by the Secretary. It is necessary, therefore, to authorize the committee to recommend and the Secretary to modify, suspend, or terminate regulations to facilitate such shipments, which will increase grower returns from potatoes grown in the production area and thereby tend to effectuate the declared policy of the act.

The marketing committees should be authorized to recommend and the Secretary to modify, suspend, or terminate regulations with respect to potatoes shipped for manufacture or conversion into specified products because such shipments reduce the supply of such potatoes available for shipment to the table stock market and, therefore, such ship-

ments would tend to increase the total value of the entire crop of potatoes. The marketing committees should be given authority to recommend which shipments should be classed as being for manufacture or for conversion into specified products because committee members are in an advantageous position to know whether and when such end products constitute outlets that are not competitive with table stock potatoes. It is concluded that the marketing committees should have authority to recommend and the Secretary to specify such products because some products compete on a basis virtually equal to table stock potatoes and, further, because new end products may be developed from time to time, some of which may, and some of which may not, be competitive with table stock potatoes. Shipments of potatoes to potato chip or french fry plants should not be included thereunder and made subject to modification, suspension, or termination of regulations because such products, i. e., potato chips and french fried potatoes, compete on a basis virtually equal to table stock potatoes.

The marketing committees should be authorized to recommend that shipments of potatoes for livestock feed, or for other specified purposes, should not be regulated, or to recommend modification or suspension of regulations governing such shipments. Livestock feed provides an outlet for potatoes that is not competitive with the table stock market. When such outlet is available it will tend to promote objectives sought under regulation to exempt shipments for this purpose from grade, size, and quality regulations. The marketing committees should be authorized to recommend that shipments of potatoes for a particular purpose or type of utilization should not be regulated, or to recommend modification or suspension of regulations with respect to such shipments, when it is found that such shipments are not competitive with table stock shipments in commerce. The Secretary, on the basis of such recommendations, or other available information, should be authorized to modify, suspend, or terminate regulations with respect thereto, when such action will tend to effectuate the declared policy of the act.

The aforesaid authorizations for the modification, suspension, or termination of regulations with respect to shipments of potatoes for each enumerated special purpose, should permit the modification, suspension, or termination of one or more regulatory provision and the simultaneous retention of other regulatory provisions, because such shipments may require expenditures of administrative funds to police and they may compete, to some extent, with shipments of potatoes for table stock purposes.

The administrative difficulties of regulating small shipments, under some circumstances, may make it uneconomical, undesirable, and impractical to attempt to do so under the marketing agreement and order. Under such circumstances, which can be readily determined by each marketing committee, regulation of such small shipments would not tend to effectuate the declared

policy of the act. It is concluded that the marketing committees should be authorized to recommend, and the Secretary to establish, the minimum quantities which should not be subject to any or all regulations issued under the marketing agreement and order in any or all portions of the production area served by such committees. It is desirable to permit the maintenance of one or more regulatory requirements, while relieving such minimum quantities from other regulatory requirements. It may be desirable, for example, to waive the inspection requirement on small shipments but require that handlers pay assessments or comply with grade, size, and quality regulations with respect to such shipments. This provision provides authority to arrange flexible operation of the marketing agreement and order to meet the local situation in the most practical way.

Such authority will promote more orderly marketing and prevent the imposition of undue burdens upon handlers making such small shipments.

The requirement that the Secretary shall notify the marketing committees, and the administrative committee, of any regulations, or of any modifications, suspensions, or terminations of regulations, is appropriate and necessary to enable such committees to be informed of such actions. The administrative committee's obligation to give reasonable notice to growers and handlers, with the assistance of the marketing committees, of regulations issued by the secretary is appropriate and necessary for proper and efficient administration of the marketing agreement and order and to apprise persons subject thereto of the contents of such regulations so that they may govern themselves accordingly.

Authority should be provided for the administrative committee to recommend, and the Secretary to prescribe, adequate safeguards to prevent potatoes, which may be exempted as aforesaid, from being placed, or continuing, in commerce contrary to the provisions of this program. Such safeguards, among others, may require inspection to provide the committee with an accurate record of the grade, size, and quality of such shipments of potatoes. In order to maintain appropriate identification of such shipments of potatoes, the administrative committee should be authorized to issue Certificates of Privilege to handlers thereof and to require that such handlers obtain such certificates on all such shipments. Certificates of Privilege should be issued in accordance with rules and regulations established by the Secretary, on the basis of administrative committee recommendations, or other available information, so that the issuance of such certificates may be handled in an orderly and efficient manner.

The administrative committee also should be authorized to deny or rescind Certificates of Privilege when such action is necessary to prevent abuse of the privileges conferred thereby. The administrative committee should be authorized to take such rescinding or denial action upon evidence satisfactory to the committee that a handler to whom



a Certificate of Privilege has been issued has handled potatoes contrary to the provisions thereof. Action by the committee denying a handler such certificates should be in terms of a specified time period. Handlers affected by the aforesaid rescinding or denial action should have the right of appeal to the committee for reconsideration.

The Secretary should have the right to modify, change, alter, or rescind any safeguards prescribed or any Certificates of Privilege issued by the administrative committee in order that the Secretary may retain all rights necessary to carry out the declared policy of the act. The Secretary should give prompt notice to the committee of any action taken by him in connection therewith and the committee should currently notify all persons affected by the indicated action.

The administrative committee should maintain detailed records relevant to Certificates of Privilege and should submit, when requested to do so, reports thereon to the Secretary to supply pertinent information requisite for him to discharge his duties under the act and the marketing agreement and order.

(c) Each marketing committee should be authorized to recommend, and the Secretary to establish, such minimum standards of quality and maturity and such grading and inspection requirements during any and all periods of marketing when potato prices are above parity, as will be in the public interest. Some potatoes are of such defective quality that they do not give consumer satisfaction at any time because of the great waste and undue amount of time involved in their preparation. The cost of such potatoes to the consumer per edible unit is frequently greater than the cost per edible unit of potatoes of better quality. Limitation of shipment of such potatoes would be in the interest of both consumers and of the potato industry in the production area. Continued shipments of low quality and immature potatoes may result in a permanent reduction in demand for potatoes grown in the production area.

(d) Provision is made in the marketing agreement and order for inspection by the Federal Inspection Service of all shipments of potatoes grown in the production area, except as hereinafter indicated. Inspection certificates issued by this service are a common and usual means of specifying the grade, size, and quality of potatoes and are generally used and recognized in the production area. Such certificates constitute prima facie evidence of the grade, size, and quality of the commodity to which they apply and they are accepted in court as such evidence. It is necessary to provide the handler, the committees, or any other interested party with a means of determining whether a shipment, or shipments, of potatoes complies with the requirements of any particular grade, size, and quality regulation which may be in effect under the marketing agreement and order. Inspection certificates provide such a means.

The Federal Inspection Service can provide reasonably prompt inspection at all points within the production area at a reasonable fee if inspection is re-

quested at a reasonable time prior to the anticipated sale or transportation of the commodity to be inspected. Effective regulation of the handling of potatoes grown in the production area requires that the grade, size, and quality of each shipment thereof be authoritatively established based upon an unrestricted inspection of each such shipment. Accordingly, the marketing agreement and order should provide that no handler shall ship potatoes unless, prior thereto, such shipment was inspected by the aforesaid Service. In the event the Federal Inspection Service is unable to provide the aforesaid inspection service, there should be authority for the Secretary to designate an inspection agency that is properly qualified to make the inspection. This is merely a precautionary measure to assure the availability of an inspection service at all times.

Although shipments of potatoes grown in the production area should meet the minimum grade, size, and quality requirements in effect at the time of such shipments, to tend to effectuate the declared policy of the act, the inspection and certification requirements are primarily an administrative device, essential and necessary for the administration of the marketing agreement and order, to enable the committees, and other interested parties, to ascertain the grade, size, and quality of the potatoes involved in such shipments.

Copies of inspection certificates issued pursuant to the requirements of the marketing agreement and order should be supplied to the administrative committee promptly, so that it may promptly discharge its administrative responsibilities thereunder. In instances where potatoes previously inspected are regraded, resorted, or in any other way subjected to further preparation for market in the production area, such potatoes should be and are required to be inspected and a copy of the inspection certificate should be furnished to the administrative committee because such further preparation for market destroys the validity of the original inspection certificate as evidence of the grade, size, and quality of the potatoes involved. All of the aforesaid requirements are necessary for proper administration and enforcement of the provisions of the marketing agreement and order.

(f) Certain hazards are incidental to the production of potatoes grown in the production area which are beyond the control or reasonable expectation of the producer of such potatoes. Because of these circumstances and to prevent undue hardship among producers with respect to any regulations which may be issued under the marketing agreement and order, the committee should be authorized to issue exemption certificates to producers to permit each producer to handle or cause to be handled his equitable proportion of all potatoes shipped from the production area if the grade, size, or quality of his potatoes have been adversely affected by conditions beyond reasonable expectation. In determining such equitable proportion, the committee should be authorized to estimate the average percentage of production which

has been and will be shipped by all producers in the producer's immediate area of production under a given regulation (which will be such equitable proportion). For such purposes, the committee will need a representative sample of the grade, size, and quality composition of the total crop in such area, a part of which, at any given time during the shipping season, may have been harvested and marketed and another part unharvested.

Similar hazards are prevalent in the handling of potatoes grown in the production area and equitable treatment of each handler, under the marketing agreement and order, requires that he be permitted to handle as large a proportion of his storage holdings of ungraded potatoes (acquired during or immediately following the digging season) as the average proportion of ungraded storage holdings handled by all handlers in an applicant-handler's immediate shipping area, if the grade, size, or quality of such applicant's potatoes have been adversely affected by conditions beyond the applicant's control and by conditions beyond reasonable expectation. Restricting the aforesaid exemptions to cases involving conditions beyond the producer's and handler's control, respectively, and to conditions beyond reasonable expectation, is necessary to preclude the granting of such hardship exemptions where the producers and handlers could have avoided the condition responsible for their hardships.

The administrative committee, by reason of its knowledge of the conditions and problems applicable to the production and handling of potatoes grown in the production area and the information which it will have available in each case, will be well qualified to judge each producer's or handler's application in a fair and equitable manner and to fix the quantity of exempted potatoes which each such applicant may handle or cause to be handled.

The provisions contained in the notice of hearing relevant to the procedure to be followed in issuing exemption certificates, in transferring such certificates, in investigating exemption claims, in appealing exemption claim determinations, and in recording and reporting exemption claim determinations to the Secretary, are necessary to the orderly and equitable operation of the marketing agreement and order and they should, therefore, be incorporated in the marketing agreement and order.

Provision should be made for the Secretary to modify, change, alter, or rescind the procedure established for granting of exemptions, and any exemptions granted pursuant to such procedure. This is necessary to guard against inequities in the granting of exemptions and to preclude the issuance of exemption certificates in unjustifiable cases.

(f) The operation of the committees and the marketing agreement and order require funds for the payment of necessary administrative expenses. The administrative committee is the logical agency to recommend what expenses are reasonable, necessary, and appropriate for operation of the program. It is also necessary that assessments be levied on

the handlers to meet such expenses since no other source of funds is authorized under the act for defraying such expenses. The administrative committee should be required, each year, to prepare and submit to the Secretary a budget showing estimated expenses of operating the program and a proposed rate of assessment. This is desirable in order that the Secretary may have the best possible information on probable expenses of the committees and the proper rate of assessment to be levied to meet such expenses.

Assessments should be levied against each handler who first ships potatoes, herein called the first handler, to establish an appropriate basis for each handler paying his pro rata share of necessary administrative expenses. Each first handler is required to pay assessments to the administrative committee, at its request, to preclude multiple assessments in connection with individual shipments of potatoes. Each first handler's pro rata share of such expenses should be the percentage of such expenses equal to the percentage his total season's first handling of potatoes subject to regulation is of the total season's first handling of potatoes subject to regulation by all first handlers. The Secretary, upon the basis of the administrative committee's recommendation, or other available information, should fix a rate of assessment per given unit of shipment which first handlers must pay as an equitable share of the expenses of administering the program.

The Secretary should be authorized to increase the rate of assessment which first handlers should pay if he finds, during or after the fiscal year, that the then current rate of assessment is insufficient to cover expenses. Such increased rate should apply to all assessable potatoes handled during that fiscal year to preclude inequities among handlers.

Revenues collected through assessments in excess of expenses for any fiscal year should, at the end of such fiscal year, be credited pro rata to each contributing handler's account, or, upon demand, refunded to any handler.

The administrative committee should be authorized to maintain, with the approval of the Secretary suits in its own name, or in the name of its members, against any handler for collection of such handler's pro rata share of the expenses. Such authority is contained in the act.

The administrative committee should be permitted to make such expenditures during a fiscal year as are authorized and are necessary for effective administration and proper functioning of the marketing agreement and order program, within the limitations of the budget submitted by the administrative committee and approved by the Secretary for such year.

Any member or alternate of the administrative committee or a marketing committee responsible for or having in his custody any of the property, funds, records, or any other possessions of any such committees, should be required to transfer it to his successor or to such person as may be designated by the Secretary, and to execute such instruments

as may be necessary to effect such transfers. The committees, and such members and alternates, should be required to give an accounting for all receipts and disbursements and for all property of such committees whenever requested by the Secretary and whenever, in the case of members and alternates, they cease to be such members or alternates. These transfer and accounting requirements represent sound business procedure and are necessary in order that there will be an unbroken succession in committee possessions.

(g) For proper and efficient administration of the marketing agreement and order, the administrative committee and the marketing committees needs information on potatoes with respect to supplies, movement, prices, and sundry other relevant factors which are best obtainable from handlers. The administrative committee should be authorized to request, with the approval of the Secretary, and every handler should be required to furnish to the committee upon request, with the approval of the Secretary, such information as may be required for the committee to exercise its powers and perform its duties under the marketing agreement and order.

The Secretary should retain the right to modify, change, alter or rescind any requests by the administrative committee for information in order to protect handlers from unreasonable requests for reports.

(h) The provisions of §§ 917.8 through 917.20, as published in the FEDERAL REGISTER of April 15, 1950 (15 F. R. 2141) are common to marketing agreements and orders now operating. Each of such sections sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the marketing agreement and order. These provisions are incidental to, and not inconsistent with, section 8c (6) and (7) of the act, and are necessary to effectuate the other provisions of the marketing agreement and order and to effectuate the declared policy of the act. The substance of such provisions, therefore, should be included in the marketing agreement and order. The requirement that termination of the program at the end of a fiscal year be announced at least 30 days prior to such time will afford producers and handlers sufficient time to plan for the next marketing season.

*General findings.* Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The order, as hereinafter set forth, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) Such order regulates the handling of potatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a proposed marketing agreement upon which a hearing has been held;

(3) The said order is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared

policy of the act; and the issuance of several orders applicable to any subdivision of the production area would not effectively carry out the declared policy of the act;

(4) The said order prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of potatoes grown in the said area,

(5) All handling of potatoes, as defined in said order, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

*Rulings on proposed findings and conclusions.* Interested parties were allowed until June 7, 1950, to file briefs with respect to findings of facts and conclusions based on evidence introduced at the hearing. No brief was filed, hence, no ruling is necessary.

*Recommended marketing agreement and order.* The following marketing agreement and order are recommended as the detailed means by which the aforesaid conclusions may be carried out.

#### DEFINITIONS

§ 917.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any officer, or employee of the United States Department of Agriculture, who is, or may hereafter be, authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 917.2 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051)

§ 917.3 *Person.* "Person" means an individual, partnership, corporation, association, or any organized group or business unit.

§ 917.4 *Production area.* "Production area" means all territory included within the counties of Goshen, Laramie, Platte, Albany, Converse, Niobrara, Natrona, Johnson, Sheridan, Washakie, Big Horn, Park, Hot Springs, and Fremont in Wyoming and the counties of Sioux, Scotts Bluff, Banner, Kimball, Cheyenne, Morrill, Box Butte, Dawes, Sheridan, Garden, Deuel, Keith, and Lincoln in Nebraska.

§ 917.5 *Potatoes.* "Potatoes" means all varieties of Irish potatoes grown within the production area.

§ 917.6 *Handler-shipper.* "Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes.

§ 917.7 *Ship; handle.* "Ship" or "handle" means to transport, sell, or in any other way to place potatoes in the current of commerce within the production area, or between the production area and any point outside thereof; *Provided,* That the definition of "ship" or "handle" shall not include or be applicable to the sale or transportation of ungraded potatoes within the production area for stor-

ing them, or the sale or transportation within the production area of potatoes to a recognized packer for the purpose of having such potatoes prepared therein for market.

§ 917.8 *Producer*. "Producer" means any person engaged in the production of potatoes for market.

§ 917.9 *Fiscal year*. "Fiscal year" means the period beginning on June 1 of each year and ending on the last day of May following.

§ 917.10 *Administrative committee; marketing committee*. "Administrative committee" means the Wyoming-Western Nebraska Committee established pursuant to § 917.22 (a) and "marketing committee" means each of the district marketing committees established pursuant to § 917.22 (b).

§ 917.11 *Varieties*. "Varieties" means and includes all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

§ 917.12 *Seed potatoes*. "Seed potatoes" means and includes all potatoes officially certified and tagged, marked, or otherwise appropriately identified, under the supervision of the official seed potato certifying agency of the respective State or such other seed certification agencies as the Secretary may designate.

§ 917.13 *Table stock potatoes*. "Table stock potatoes" means and includes all potatoes not included within the definition of "seed potatoes."

§ 917.14 *Pack*. "Pack" means a unit of potatoes contained in a bag, crate, or other type of container and falling within specific weight limits recommended by the administrative committee and approved by the Secretary.

§ 917.15 *Grade*. "Grade" means any one of the officially established grades of potatoes, and "size" means any one of the officially established sizes of potatoes, as defined and set forth in:

(a) The United States Standards for Potatoes issued by the United States Department of Agriculture (14 F. R. 1955, 2161) or amendments thereto, or modifications thereof, or variations based thereon; or

(b) The United States Consumer Standards for Potatoes issued by the United States Department of Agriculture (12 F. R. 7281) or amendments thereto, or modifications thereof, or variations based thereon.

§ 917.16 *Export*. "Export" means shipments of potatoes beyond the boundaries of continental United States.

§ 917.17 *District, and subdistrict*. "District" means each of the districts of the production area established pursuant to § 917.26; and "subdistrict" means each of the subdistricts established pursuant to the same section.

§ 917.18 *Part and subpart*. "Part" means the order regulating the handling of Irish potatoes grown in the production area, and all rules, regulations, and supplementary orders issued thereun-

der, and the aforesaid order shall be a "subpart" of such "part"

#### COMMITTEE

§ 917.22 *Establishment*—(a) *Administrative Committee*. The Wyoming-Western Nebraska Potato Committee consisting of six members, four of whom shall be producers and two of whom shall be handlers, is hereby established. All of such members shall be members of a marketing committee under this subpart.

(b) *Marketing committees*. Marketing committees are hereby established as follows:

(1) *District No. 1 Potato Marketing Committee*. This committee shall consist of nine members, six of whom shall be producers and three of whom shall be handlers.

(2) *District No. 2 Potato Marketing Committee*. This committee shall consist of nine members, six of whom shall be producers and three of whom shall be handlers.

§ 917.23 *Committee members and alternates*. For each member of each committee there shall be an alternate who shall have the same qualifications as the member. Each person selected as a marketing committee member or alternate to represent producers in a subdistrict shall be an individual who is a producer or officer or employee of a producer in such subdistrict. Each person selected as a marketing committee member or alternate to represent handlers in a district shall be an individual who is a handler or officer or employee of a handler in such district.

§ 917.24 *Term of office*. (a) The respective terms of office of administrative committee members and alternates and marketing committee members and alternates shall be two fiscal years: *Provided*, That the term of office of a majority of the initial members and respective alternates of each committee shall be one fiscal year. Each member and alternate shall continue to serve until the respective successor is selected and has qualified.

(b) Administrative and marketing committee members and alternates shall serve during the term of office for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify.

§ 917.25 *Selection*—(a) *Administrative committee*. The Secretary shall select the members and alternates of the Wyoming-Western Nebraska Potato Committee as follows: Two producer members and alternates and one handler member and alternate from each marketing committee established under this subpart.

(b) *Marketing committee*. The Secretary shall select marketing committee members and alternates as follows: For District No. 1 Potato Marketing Committee, four producer members and alternates from subdistrict 1 A, two producer members and alternates from subdistrict 1 B, and three handler members from District No. 1; and for District No. 2 Potato Marketing Committee, four producer members and alternates from subdistrict 2 A, two producer members

and alternates from subdistrict 2 B, and three handler members from District No. 2. The aforesaid districts and subdistricts are established pursuant to § 917.26.

§ 917.26 *Districts and subdistricts*. As a basis for selecting marketing committee members, the following districts and subdistricts of the production area are hereby established:

Districts	Subdistrict	State and counties
District No. 1...	1A	Converse, Nebraska, Platte, Gosport and Laramie Counties in Wyoming.
	1B	All the remaining counties in Wyoming within the production area not included in subdistrict 1A.
District No. 2...	2A, 2B	Scotts Bluff County in Nebraska. All the remaining counties in Nebraska within the production area not included in subdistrict 2A.

§ 917.27 *Nomination*. The Secretary may select the members of the administrative committee and the marketing committees and their respective alternates from nominations which may be made in the following manner:

(a) Nominations for members of the administrative committee and their respective alternates to represent a district may be submitted by the marketing committee serving such district. At least two nominees from among the membership on such marketing committee shall be designated for each position to be filled on the administrative committee. Nominations for administrative committee members and their respective alternates shall be supplied to the Secretary in such manner and form as he may prescribe, as soon as practical after the respective marketing committee organizes and begins operating during the term for which selected.

(b) Nominations for initial producer members of each marketing committee and their respective alternates may be submitted by producers, or groups thereof, and such nominations may be by virtue of elections conducted by such producers. Nominations for initial handler members of each marketing committee and their respective alternates may be submitted by handlers, or groups thereof, and such nominations may be by virtue of elections conducted by such handlers.

(c) In order to provide nominations for successor members and alternate members on a marketing committee:

(1) The Wyoming-Western Nebraska Potato Committee shall hold or cause to be held 60 days prior to the end of each fiscal year, after the effective date of this subpart, a meeting or meetings of producers and handlers, respectively, in the district served by the committee;

(2) At each such meeting at least two nominees shall be designated for each position as member and for each position as alternate member on the marketing committee which is vacant or which is to become vacant at the end of the then current fiscal year;

(3) Nominations for marketing committee members and alternate members

## PROPOSED RULE MAKING

shall be supplied to the Secretary in such manner and form as he may prescribe, not later than 45 days prior to the end of such fiscal year.

(4) Only producers may participate in designating nominees for producer members and their alternates and only handlers may participate in designating nominees for handler members and their alternates;

(5) Each person who is both a handler and a producer may vote either as a handler or as a producer and shall elect the group in which he votes; and

(6) Regardless of the number of subdistricts in which a person is a producer, such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives, in designating nominees for each producer member position and each producer alternate member position to be filled on such committee: *Provided*, That in the event a person is a producer in more than one subdistrict, such person shall elect the subdistrict within which he will participate as aforesaid in designating nominees.

§ 917.28 *Failure to nominate.* If nominations are not made within the time and in the manner specified by the Secretary pursuant to § 917.27, the Secretary may, without regard to nominations, select administrative committee, and marketing committee, members and alternates, which selection shall be on the basis of the representation provided in this subpart.

§ 917.29 *Acceptance.* Any person selected as a member or as an alternate member on any committee shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

§ 917.30 *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term may be selected by the Secretary from nominations made in the manner specified in § 917.27, or the Secretary may select such committee member or alternate from previously unselected nominees on the applicable current nominee list. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, which selection shall be made on the basis of the representation provided in this subpart.

§ 917.31 *Alternate members.* An alternate member of any committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence, or inability to act. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified.

§ 917.32 *Procedure.* (a) Four members of the Wyoming-Western Nebraska Potato Committee shall be necessary to

constitute a quorum of the administrative committee and a like number of concurring votes shall be necessary to pass any motion or approve any committee action.

(b) Five members of a marketing committee shall be necessary to constitute a quorum of such committee and a like number of concurring votes shall be necessary to pass any motion or approve any action of such committee.

(c) Committee meetings may be conducted by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be confirmed promptly in writing: *Provided*, That if an assembled meeting is held, all votes shall be cast in person.

§ 917.33 *Expenses and compensation.* Committee members and alternates shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under this part, and shall receive compensation at a rate to be determined by the administrative committee, which rate shall not exceed \$10.00 for each day, or portion thereof, spent in attending to committee business.

§ 917.34 *Powers.* The Wyoming-Western Nebraska Potato Committee and each of the marketing committees shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 917.35 *Duties—*(a) *Administrative committee.* It shall be the duty of the Wyoming-Western Nebraska Potato Committee:

(1) To act as intermediary between the Secretary and any producer or handler.

(2) To select, from among its membership, a chairman and such other officers as may be necessary, and subcommittees of committee members, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(3) To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries and define the duties of each such person;

(4) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes, and to engage in such research and service activities which relate to the handling or marketing of potatoes as may be approved by the Secretary.

(5) To furnish to the Secretary such available information as he may request;

(6) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the administrative committee and such minutes, books, and records shall be subject to examination

at any time by the Secretary or his authorized agent or representative;

(7) At the beginning of each fiscal year, to submit to the Secretary a budget of its expenses and assessments for such fiscal year, together with a report thereon;

(8) To recommend the rate of assessment to cover the expenses set forth in the budget;

(9) To cause the books of the administrative committee to be audited by a competent accountant at least once each fiscal year, and at such other time as such committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part; a copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of such committee for inspection by producers and handlers; and

(10) To consult, cooperate and exchange information when deemed desirable by the administrative committee with other potato administrative committees and other individuals or agencies in connection with all proper activities and objectives of such committee under this part.

(b) *Marketing committees.* It shall be the duty of each marketing committee:

(1) To nominate members and alternates for the Wyoming-Western Nebraska Potato Committee;

(2) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes;

(3) To make recommendations pursuant to § 917.52 for the issuance of regulations to be applicable to shipments from the district served by the respective committee;

(4) To act as intermediary between the Secretary and any producer or handler;

(5) To select, from among its membership, a chairman and such other officers as may be necessary and to select subcommittees of committee members;

(6) To adopt such rules and regulations for the conduct of its business as it may deem advisable; and

(7) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative.

## EXPENSES, ASSESSMENTS, AND BUDGETS

§ 917.40 *Budget.* The administrative committee shall prepare a budget for each fiscal year showing its anticipated expenses and a proposed rate of assessment to cover such expenses. The administrative committee shall also transmit a report accompanying the budget showing the basis for its calculation of expenses and the proposed rate of assessment.

§ 917.41 *Expenses.* The administrative committee is authorized to incur such expenses as the Secretary, upon the basis of the aforesaid budget, or on the

basis of other available information, finds may be necessary and appropriate during each fiscal year.

§ 917.42 *Rate of assessment.* The funds to cover such expenses shall be acquired by the levying on handlers of assessments which shall be at a rate fixed by the Secretary on the basis of the administrative committee's recommendation or other available information. Each handler who first ships potatoes shall pay assessments to the administrative committee, upon demand, which assessments shall be such handler's pro rata share of the expenses which will be appropriately incurred by such committee during each fiscal year. Such handler's share of such expenses shall be proportionate to the ratio between the total quantity of potatoes handled by him as the first handler thereof, during the applicable fiscal year, and the total quantity of potatoes handled by all handlers as the first handlers thereof, during the same fiscal year.

§ 917.43 *Increasing rate of assessment.* Upon recommendation of the administrative committee or upon a later finding relative to such committee's expenses or revenue, the Secretary may increase the rate of assessment to cover expenses which shall be appropriately incurred. Such increase shall be applicable to all potatoes handled during the given fiscal year.

§ 917.44 *Accounting.* All funds received by the administrative committee pursuant to any provision of this part shall be used solely for the purposes specified in this part and shall be accounted for in the following manner:

(a) The Secretary may at any time require the administrative committee and its members to account for all receipts and disbursements; and

(b) Whenever any person ceases to be an administrative or marketing committee member or alternate, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all the property, funds, or claims vested in such member or alternate.

§ 917.45 *Collection of funds.* The administrative committee may, with the approval of the Secretary, maintain in its own name or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of its expenses.

§ 917.46 *Refunds.* If, at the end of a fiscal year, it shall appear that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal year, unless he demands payment thereof, in which event such proportionate refund shall be paid to him.

#### REGULATION

§ 917.50 *Marketing policy preparation.* (a) At the beginning of each marketing season the administrative committee and the marketing committees shall hold a joint meeting to consider a proposed policy for the marketing of potatoes grown in the respective districts during such season. In developing such marketing policy the committees shall investigate relevant supply and demand conditions for potatoes and in such investigations shall give appropriate consideration to the following:

(1) Market prices for potatoes, including prices by grade, size, and quality in different packs;

(2) Supply of potatoes, by grade, size, and quality in the production area and in other production areas;

(3) The trend and level of consumer income; and

(4) Other relevant factors.

(b) Following such joint consideration of marketing policy, each marketing committee shall adopt a proposed policy for the marketing of potatoes grown in its district and prepare a report thereon.

§ 917.51 *Marketing policy report.* (a) Each marketing committee shall submit to the Secretary a report setting forth the aforesaid marketing policy, and a copy of such report shall be made available to the administrative committee. Each committee with the assistance of the administrative committee also shall notify producers and handlers of the contents of such reports.

(b) In the event it becomes advisable for a marketing committee to deviate from its marketing policy, because of changed supply and demand conditions, the administrative committee and the marketing committees shall formulate a new marketing policy in accordance with the manner previously outlined. Such marketing committee also shall submit a report thereon to the Secretary, also to the administrative committee, and notify, with the assistance of the administrative committee, producers and handlers of such revised or amended marketing policy.

§ 917.52 *Recommendation for regulations; committee recommendations.* Each marketing committee shall recommend regulation, for the district which it serves, to the Secretary whenever it finds that such regulation, as provided in § 917.53, will tend to effectuate the declared policy of the act. Each marketing committee also may recommend modification, suspension, or termination of any regulation in order to facilitate shipments of potatoes, grown in such district, pursuant to § 917.54.

§ 917.53 *Issuance of regulations.* The Secretary shall limit the shipment of potatoes whenever he finds from the recommendations and information submitted by any marketing committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such limitation may:

(a) Regulate, in any or all portions of the production area, the shipment of particular grades, sizes, or qualities of

any or all varieties of potatoes during any period; or

(b) Regulate the shipment of particular grades, sizes, or qualities of potatoes differently, for different varieties, for different portions of the production area, for different packs, or any combination of the foregoing during any period; or

(c) Regulate the shipment of potatoes by establishing, and maintaining in effect in terms of grades, sizes, or both, minimum standards of quality or maturity, or both.

§ 917.54 *Modification, suspension, or termination.* The Secretary shall modify, suspend, or terminate regulations issued pursuant to §§ 917.42, 917.53, or 917.65, or any combination thereof, in order to facilitate shipments of potatoes for one or more of the following purposes, whenever he finds, upon the basis of the recommendations and information submitted by any marketing committee for the district served by such committee, or from other available information, that such action will tend to effectuate the declared policy of the act:

(a) For seed;

(b) For export;

(c) For distribution by the Federal Government;

(d) For manufacture or conversion into specified products;

(e) For livestock feed; and

(f) For other purposes which may be specified.

§ 917.55 *Minimum quantity regulation.* Each marketing committee, with the approval of the Secretary, may establish for any or all portions of the production area, served by such committee, minimum quantities below which shipments will be free from regulations issued or in effect pursuant to §§ 917.42, 917.43, 917.53, or 917.65 or any combinations thereof.

§ 917.56 *Notification of regulation.* The Secretary shall notify the administrative committee and marketing committees of each regulation issued, and modification, suspension, or termination thereof. The administrative committee with the assistance of the marketing committees shall give reasonable notice thereof to producers and handlers.

§ 917.57 *Safeguards.* (a) The administrative committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent shipments pursuant to § 917.54 from entering channels of trade for other than the specific purpose authorized therefor, and rules governing the issuance and the contents of Certificates of Privilege if such certificates are prescribed as safeguards by such committee. Such safeguards may include requirements that:

(1) Handlers shall file applications with the administrative committee to ship potatoes pursuant to § 917.54;

(2) Handlers shall obtain inspection provided by § 917.65 or pay the aforesaid pro rata share of expenses, or both, in connection with potato shipments effected under the provisions of § 917.54; and

(3) Handlers shall obtain Certificates of Privilege from the administrative committee for shipments of potatoes



effected or to be effected under the provisions of § 917.54.

(b) The administrative committee may rescind or deny Certificates of Privilege to any shipper if proof is obtained that potatoes shipped by him for the purposes stated in § 917.54 were handled contrary to the requirements applicable thereto.

(c) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the administrative committee pursuant to the provisions of this section.

(d) The administrative committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of potatoes covered by such applications, the number of such applications denied and certificates granted, the quantity of potatoes shipped under duly issued certificates, and such other information as may be requested.

#### INSPECTION

§ 917.65 *Inspection and certification.* During any period in which shipments of potatoes are regulated pursuant to the provisions of §§ 917.42, 917.43, or 917.53, no handler shall ship potatoes unless, prior thereto, such shipment was inspected by an authorized representative of the Federal Inspection Service or such other inspection service as the Secretary shall designate. Each handler procuring inspection pursuant to this section shall make arrangements with the inspecting agency to forward promptly to the administrative committee a copy of the inspection certificate: *Provided*, That the regrading, resorting, repacking, or other further preparation of inspected potatoes for market shall invalidate prior inspection thereon and subsequent shipment of such potatoes after regrading, resorting, repacking, or other preparation for market shall not be effected unless, prior thereto, such shipment is inspected as provided in this section.

#### EXEMPTIONS

§ 917.70 *Procedure.* The administrative committee may adopt, subject to approval of the Secretary, the procedures pursuant to which certificates of exemption will be issued to producers and to handlers.

§ 917.71 *Granting exemptions.* (a) Such committee may issue certificates of exemption to any producer who applies for such exemption and furnishes adequate evidence to the committee that, by reason of a regulation issued pursuant to § 917.53, he will be prevented from handling, or causing to be handled, as large a proportion of his production as the average proportion of production handled, or caused to be handled, during the entire season (or such portion thereof as may be determined by the committee) by all producers in said applicant's immediate area of production and that the grade, size, and quality, or either thereof, of the applicant's potatoes, has been adversely affected by acts beyond the applicant's control and by acts beyond his reasonable expectation.

Each such certificate shall permit the producer to handle, or cause to be handled, the amount of potatoes specified thereon. Such certificate shall be transferred with such potatoes at time of transportation or sale.

(b) Such committee may issue certificates of exemption to any handler who applies for such exemption and furnishes adequate evidence to the committee that, by reason of a regulation issued pursuant to § 917.53, he will be prevented from handling as large a proportion of his storage holdings of ungraded potatoes, acquired during or immediately following the digging season, as the average proportion of ungraded storage holdings (acquired as aforesaid) handled by all handlers in said applicant's immediate shipping area, and that the grade, size, and quality, or either thereof of the applicant's potatoes, has been adversely affected by acts beyond the applicant's control and by acts beyond his reasonable expectation. Each such certificate shall permit the handler to handle the amount of potatoes specified thereon. Such certificate shall be transferred with such potatoes at time of transportation or sale.

(c) The committee shall be permitted, at any time, to make a thorough investigation of any producer's or handler's claim pertaining to exemptions.

§ 917.72 *Appeal.* If any applicant for exemption certificates is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Each applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a final determination concerning the application. The committee shall notify the appellant of the final determination and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

§ 917.73 *Records and reports of exemptions.* (a) The administrative committee shall maintain records of all applications submitted for exemption certificates, of all exemption certificates issued, of the respective quantity of potatoes covered by each such exemption certificates, of the amount of potatoes shipped under exemption certificates, and of appeals submitted for reconsideration of applications, and such additional information as may be requested by the Secretary. Periodic reports on such records shall be compiled and issued by the administrative committee upon request of the Secretary.

(b) The Secretary shall have the right to modify, change, alter, or rescind any procedure and any exemptions granted pursuant to § 917.70, 917.71, or 917.72, or any combination thereof.

#### MISCELLANEOUS PROVISIONS

§ 917.80 *Reports.* Upon the request of the administrative committee, with approval of the Secretary, every handler

shall furnish to such committee, in such manner and at such time as may be prescribed, such information as will enable the administrative committee and the marketing committees to exercise their powers and perform their duties under this part. The Secretary shall have the right to modify, change, or rescind any requests for reports made pursuant to this section.

§ 917.81 *Compliance.* Except as provided in this part, no handler shall ship potatoes, the shipment of which has been prohibited by the Secretary in accordance with provisions of this part, and no handler shall ship potatoes except in conformity to the provisions of this part.

§ 917.82 *Right of the Secretary.* The members of the administrative committee (including successors and alternates) and any agent or employee appointed or employed by such committee, and the members of the marketing committees (including successors and alternates) shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of each such committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 917.83 *Effective time.* The provisions of this subpart shall become effective at such time as the Secretary may declare above his signature attached to this subpart and shall continue in force until terminated in one of the ways hereinafter specified.

§ 917.84 *Termination.* (a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal year whenever he finds that such termination is favored by a majority of producers who, during the preceding fiscal year, have been engaged in the production for market of potatoes: *Provided*, That such majority has, during such year, produced for market more than fifty percent of the volume of such potatoes produced for market; but such termination shall be effective only if announced at least 30 days prior to the end of the then current fiscal year.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(e) The Secretary shall terminate the provisions of this agreement at the end of any fiscal year, upon the written request of handlers signatory to this agreement who submit evidence satisfactory to the Secretary that they handled not

less than sixty-seven percent of the total volume of potatoes handled by the signatory handlers during the preceding fiscal year; but such termination shall be effective only if announced at least 30 days prior to the end of the then current fiscal year.<sup>1</sup>

§ 917.85 *Proceedings after termination.* (a) Upon the termination of the provisions of this subpart, the then functioning members of the administrative committee shall continue as trustees, for the purpose of liquidating the affairs of such committee and the marketing committees, of all the funds and property then in the possession of or under control of such committees, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary, shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the aforesaid committees and of the trustees, to such person as the Secretary may direct; and shall upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligations imposed in this part.

§ 917.86 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this subpart, or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulations issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 917.87 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 917.88 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department

of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 917.89 *Derogation.* Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted, by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 917.90 *Personal liability.* No member or alternate of the administrative committee or any marketing committee, or any employee or agent of the administrative committee, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty.

§ 917.91 *Separability.* If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 917.92 *Amendments.* Amendments to this subpart hereto may be proposed, from time to time, by the administrative committee, or by any marketing committee, or by the Secretary.

§ 917.93 *Counterparts.* This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.<sup>1</sup>

§ 917.94 *Additional parties.* After the effective date of this agreement, any handler who has not previously executed this agreement may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting part at the time such counterpart is delivered to the Secretary, and benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.<sup>1</sup>

§ 917.95 *Order with marketing agreement.* Each signatory handler favors and approves the issuance of an order, by the Secretary, regulating the handling of potatoes in the same manner as is provided in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.<sup>1</sup>

Done at Washington, D. C., this 8th day of August 1950.

[SEAL]

JOHN I. THOMPSON,  
Assistant Administrator.

[F. R. Doc. 50-7035; Filed, Aug. 10, 1950; 8:51 a. m.]

## 17 CFR, Part 978 I

[Docket No. AO-184-A5]

### HANDLING OF MILK IN THE NASHVILLE, TENN., MARKETING AREA

#### NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO A PROPOSED AMENDMENT TO THE TENTATIVE MARKETING AGREEMENT, AND TO THE ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Nashville, Tennessee, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C. not later than the close of business the 10th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

*Preliminary statement.* The hearing on a proposed amendment to the tentative marketing agreement and to the order, as amended, was conducted at Nashville, Tennessee, on April 6, 1950, pursuant to notice thereof which was issued on March 30, 1950 (15 F. R. 1875).

The material issue of record related to a change in the provisions with respect to the fall production incentive plan.

*Findings and conclusions.* Upon the basis of the evidence introduced at the hearing and the record thereof, it is hereby found and concluded that the provisions of the present order with respect to the fall production incentive plan should not be changed in the manner proposed.

Presently the order provides that in the computation of the uniform price a sum of money equal to 45 cents per hundredweight of milk received from producers during April, May, and June of each year will be retained in the producer-settlement fund. One-third of this fund is added to the money otherwise payable to producers for milk received from them during each of the following months of September, October, and November.

The purpose of the plan is to encourage a more even distribution seasonally of the annual deliveries of milk to the market. A more even seasonal pattern of milk production is desirable because sales of milk in fluid form do not vary greatly from season to season (although there are considerable daily fluctuations) while the production of milk for this market, on the other hand, has had a pronounced seasonal variation. The result has been that more than ample supplies have been available during the spring months while shortages have oc-

<sup>1</sup> Applicable only to the proposed marketing agreement.

curred in the fall months. The plan tends to achieve its end by reducing prices to producers in the season of ample production and increasing prices in the season of shortages.

The fall production incentive plan was made effective in this market in 1948 and the first deductions and payments under it were made in 1949. Following the institution of the plan it appears that a greater tendency developed for farmers to enter the market just before and during the short production season of the year and to leave the market just before and during the flush production season of the year. Of the new producers coming on the market in 1948, 27 percent came on during the last six months while 78 percent came on during this period in 1949. Of those producers leaving the market in 1948, 15 percent left in April, May, and June, while 34 percent left during these months in 1949.

The plan was criticized on the grounds that farmers who came on the market just before and during the short season of the year shared in the proceeds of the fund which had been deducted in the previous flush season of the year. These criticisms do not take into account, however, the essential purpose of the level of production incentive plan which is to provide more milk for the market in the short season and somewhat less milk than would otherwise be the case in the flush season. Consequently, the acquisition of new producers before and during the short season aids in providing an adequate supply of milk during the season when it is most needed and the departure of producers before and during the flush season aids in reducing the unwieldy surpluses which occur at that time of the year.

The fall production incentive plan has been in operation for a comparatively short time. The market has not received from producers more milk during the three fall months than is needed to fulfill the requirements for Class I milk

and Class II milk. Time is necessary upon which to determine whether the plan is obtaining the desired goal. If later results show that it is not, further study should be made of its weaknesses and of the possible use of some other plan which might accomplish better the end sought.

*Rulings on proposed findings and conclusions.* Briefs were filed on behalf of Nashville Milk Producers, Inc., and on behalf of the handlers in the market.

The briefs contained statements of fact, proposed findings and conclusions, and arguments with respect to the provisions of the proposed amendment. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that the findings and conclusions proposed in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is deemed on the basis of the facts found and stated in connection with the conclusions in this recommended decision.

Filed at Washington, D. C., this 7th day of August 1950.

JOHN I. THOMPSON,  
Assistant Administrator

[F. R. Doc. 50-7033; Filed, Aug. 10, 1950;  
8:51 a. m.]

## FEDERAL COMMUNICATIONS COMMISSION

[47 CFR, Part 3]

TELEVISION BROADCAST SERVICE

ORDER ACCEPTING PETITION AND ENGINEERING STATEMENT AS COMMENT AND INVITING OPPOSITIONS

In the matters of amendment of § 3.606 of the Commission's rules and

regulations, Docket Nos. 8736 and 8975; amendment of the Commission's rules, regulations and Engineering Standards concerning the Television Broadcast Service, Docket No. 9175; Utilization of Frequencies in the Band 470 to 890 Mcs. for Television Broadcasting, Docket No. 8976.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 2d day of August 1950:

The Commission having under consideration a petition filed on June 30, 1950 by The Peoples Broadcasting Company entitled "Amended Appearance" but which is, in effect, a request to file a comment in the above-entitled proceedings asking the Commission to allocate Channel 9 to Lancaster, Pennsylvania, and

It appearing that good and sufficient reason has been advanced in said petition for the delay in the timely filing thereof and that the hearing date for consideration of the proposed allocations herein has not been set;

It is ordered, That the petition of The Peoples Broadcasting Company and attached supporting engineering statement is accepted as a comment in the above-entitled proceedings and interested parties may file oppositions thereto within 10 days from the date of this order.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] T. J. SLOWIE,  
Secretary.

[F. R. Doc. 50-7074; Filed, Aug. 10, 1950;  
9:53 a. m.]

## NOTICES

### DEPARTMENT OF COMMERCE

#### Office of Industry and Commerce

[Case No. 89]

ARTHUR HARRIS ET AL.

#### ORDER SUSPENDING LICENSE PRIVILEGES

In the matter of: Arthur Harris, Southern International Corporation, Melvin Shipping Corporation, Melvin Kornbluth, 11 Broadway, New York, N. Y., respondents.

This proceeding was begun by the mailing of a charging letter to the above-named respondents by the Office of International Trade under date of October 31, 1949, wherein respondents were charged with having made twelve specified exportations of canned meats during the period of May through August 1949, in violation of the export control regulations and, except for respondent Kornbluth, also in violation of an outstanding

order issued by the Office of International Trade suspending the export license privileges of respondent Harris and others on account of prior violations of such regulations, and thus with having violated the Export Control Act of 1949 (63 Stat. 7)

An oral hearing having been requested by respondents, such hearing was held in New York City on January 5 and 6, 1950, before the Compliance Commissioner. Respondents as well as the Office of International Trade were represented by counsel and presented both oral and documentary evidence. After such hearing, the administration of export controls was transferred by order of the Secretary of Commerce from the Office of International Trade to the Office of Industry and Commerce, with the consequence that this proceeding was similarly transferred. Thereafter, all evidentiary material presented at the hearing having been carefully reviewed

by the Compliance Commissioner, he filed his report under date of July 17, 1950.

It appears from the record and the report of the Compliance Commissioner that on April 1, 1949, after findings of violation of the export control regulations on the part of respondent Harris and certain corporations which he owned and controlled, an order was issued by the Office of International Trade denying them the privilege of making exportations under validated licenses for a period of six months and the privilege of making exportations under general licenses for a period of two months; that such order was expressly made applicable not only to Harris personally but also to any other business organization with which he might be or become related by ownership or control or in which he might hold or secure a position of responsibility; that such order was thereafter, on April 8, 1949, modified so as to

On June 5, 1950, Texas Eastern Transmission Corporation (Applicant), a Dela-

ware corporation with its principal place of business at Shreveport, Louisiana, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the sale and delivery to its existing customers west of its Compressor Station No. 20, of additional volumes of natural gas, all as more fully described in such application on file with the Commission and open to public inspection.

Applicant has requested that this application be heard under the shortened procedure provided by § 1.32 (b) of the Commission's rules of practice and procedure (18 CFR 1.32 (b)) for non-contested proceedings, and this proceeding appears to be a proper one for disposition under the aforesaid rule, provided no request to be heard, protest or petition raising an issue of substance having been filed within the prescribed time subsequent to the giving of due notice of the filing of the application including publication in the FEDERAL REGISTER on June 22, 1950 (15 F. R. 4034-4035)

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure, a public hearing be held on September 1, 1950, at 9:45 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however* That the Commission may, after a non-contested hearing, forthwith dispose of the proceeding pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

(B) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the said rules of practice and procedure.

Date of issuance: August 7, 1950.

By the Commission.

J. H. GUTRIE,  
*Acting Secretary.*

[F. R. Doc. 50-7017; Filed, Aug. 10, 1950;  
8:47 a. m.]

[Docket No. G-1408]

TEXAS GAS TRANSMISSION CORP.

ORDER FIXING DATE OF HEARING

AUGUST 4, 1950.

On June 5, 1950, Texas Gas Transmission Corporation (Applicant) a Delaware corporation with its principal place of business in Owensboro, Kentucky, filed an application, and amendment thereto on June 13, 1950, for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, as amended, authorizing the installation and operation of certain natural gas facilities subject to the jurisdiction of the Commission, all as more fully described in such application, on file

with the Commission and open to public inspection.

Applicant has requested that this application be heard under the shortened procedure provided by § 1.32 (b) of the Commission's rules of practice and procedure (18 CFR 1.32 (b)) for non-contested proceedings, and this proceeding appears to be a proper one for disposition under the aforesaid rule, provided no request to be heard, protest or petition raising an issue of substance having been filed within the prescribed time subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on June 23, 1950 (15 F. R. 4064)

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure, a public hearing be held on September 1, 1950, at 9:30 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however* That the Commission may, after a non-contested hearing, forthwith dispose of the proceeding pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

(B) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the said rules of practice and procedure.

Date of issuance: August 7, 1950.

By the Commission.

[SEAL] J. H. GUTRIE,  
*Acting Secretary.*

[F. R. Doc. 50-7016; Filed, Aug. 10, 1950;  
8:47 a. m.]

## INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 25302]

CINDERS, CLAY OR SHALE, FROM WEST  
MINERAL, KANS., TO SOUTHWEST

APPLICATION FOR RELIEF

AUGUST 8, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariff I. C. C. No. 3736.

Commodities involved: Cinders, clay or shale, ground or not ground, carloads. From: West Mineral, Kans.

To: Stations in Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

Grounds for relief: Competition with rail carriers and to apply over short tariff routes rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3736, Supplement 140.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,  
*Secretary.*

[F. R. Doc. 50-7006; Filed, Aug. 10, 1950;  
8:46 a. m.]

[4th Sec. Application 25303]

IRON OR STEEL PIPE FROM OKLAHOMA TO  
HOUSTON, TEX.

APPLICATION FOR RELIEF

AUGUST 8, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for and on behalf of carriers parties to his tariff I. C. C. No. 3881.

Commodities involved: Wrought iron or steel pipe and related articles, carloads.

From: Tulsa and Oklahoma City, Okla. To: Houston, Tex.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3881, Supplement 10.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,  
*Secretary.*

[F. R. Doc. 50-7007; Filed, Aug. 10, 1950;  
8:46 a. m.]



[4th Sec. Application 25304]

ASPHALT FROM MONTANA AND WYOMING TO  
MINNESOTA AND SOUTH DAKOTA

## APPLICATION FOR RELIEF

AUGUST 8, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. E. Kipp, Agent, for and on behalf of carriers parties to CB&Q., tariff I. C. C. No. 20059.

Commodities involved: Asphalt, carloads.

From: Points in Montana and Wyoming.

To: Points in Minnesota and South Dakota.

Grounds for relief: Circuitous routes and market competition.

Schedules filed containing proposed rates: CB&Q., tariff I. C. C. No. 20059, Supplement 33.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL]

W. P. BARTEL,  
Secretary.[F. R. Doc. 50-7008; Filed, Aug. 10, 1950;  
8:46 a. m.]

[4th Sec. Application 25305]

PHOSPHATE ROCK FROM FLORIDA TO  
ILLINOIS

## APPLICATION FOR RELIEF

AUGUST 8, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. G. Raasch, Agent, for and on behalf of the Elgin, Joliet and Eastern Railway Company and other carriers described in the application.

Commodities involved: Phosphate rock and related articles, carloads.

From: Points in Florida.

To: Chicago Heights and Joliet, Ill.

Grounds for relief: Circuitous routes. Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from

the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL]

W. P. BARTEL,  
Secretary.[F. R. Doc. 50-7009; Filed, Aug. 10, 1950;  
8:46 a. m.]

[4th Sec. Application 25305]

## BRICK FROM AND TO POINTS IN SOUTH

## APPLICATION FOR RELIEF

AUGUST 8, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1044.

Commodities involved: Brick and related articles, carloads.

Between: Points in the south and between points in the south, on the one hand, and points in Virginia in official territory, on the other.

Grounds for relief: Circuitous routes, to maintain grouping and to apply over short tariff routes rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1044, Supplement 103.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL]

W. P. BARTEL,  
Secretary.[F. R. Doc. 50-7010; Filed, Aug. 10, 1950;  
8:46 a. m.]SECURITIES AND EXCHANGE  
COMMISSION

[File No. 812-677]

AXE-HOUGHTON FUND, INC., ET AL.

## NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 7th day of August A. D. 1950.

In the matter of Axe-Houghton Fund, Inc., Axe-Houghton Fund B, Inc., Republic Investors Fund, Inc., and Leffler Corporation; File No. 812-677.

Notice is hereby given that Axe-Houghton Fund, Inc., Axe-Houghton Fund B, Inc. and Republic Investors Fund, Inc. (hereinafter sometimes referred to as "Fund" or "Funds" as the case may be), registered investment companies, and Leffler Corporation, the principal underwriter for all three Funds, have filed an application pursuant to section 6 (c) of the Investment Company Act of 1940 for an order of the Commission exempting from the provisions of section 22 (d) of the act, the offering of shares of the Funds at reduced public offering prices based on quantity purchases of shares of one or more of the three Funds, under the different circumstances hereinafter described.

Each of the Funds is an open-end investment company and E. W. Axe & Co., Inc. is the investment adviser and manager of all three.

The application states that Axe-Houghton Fund, Inc., and Axe-Houghton Fund B, Inc. are both normally classified as balanced funds, but their portfolio holdings are substantially different, and they differ in their investment objectives; the primary investment objective of Axe-Houghton Fund, Inc. is capital appreciation, whereas continuity of income is given greater emphasis in the case of Axe-Houghton Fund B, Inc., Republic Investors Fund, Inc. is a leverage company with bank borrowings and preferred stock outstanding in addition to common stock; its primary investment objective is long-term capital appreciation, but the leverage of senior securities makes it a more speculative investment than would otherwise be the case.

The offering price of the shares of each of the three Funds is equal to the net asset value per share plus a percentage selling commission. Quantity discounts, resulting in decreased selling commissions, are presently available with respect to individual purchases of \$25,000 or more of the shares of each of the individual Funds. In each case, the selling commission is reduced to 6 percent on purchases of \$25,000 or more, 4 percent on purchases of \$50,000 or more, 2 percent on purchases of \$100,000 or more.

It is now proposed to extend these quantity discounts to purchases of shares of any one or more of the three Funds so that a quantity discount will be available for concurrent purchases of shares of one or more of the Funds for issue (1) in one name, (2) in the name of the same trustee or other fiduciary for one or more accounts, or (3) in the

name of members of the same immediate family. The schedule of selling commissions in such cases will be as follows: 6 percent if the aggregate selling price is \$25,000 or more, 4 percent if the aggregate selling price is \$50,000 or more, 2 percent if the aggregate selling price is \$100,000, and 1 percent if the aggregate selling price is \$250,000 or more.

The application further states that it has been the experience of the Funds and Leffler Corporation that persons contemplating a sizeable purchase of investment company shares seek to diversify their holdings in several Funds with different portfolios and differing investment objectives and that the proposed schedule of quantity discounts will permit such an investor to obtain the diversification he seeks without sacrificing the advantage of the quantity discount presently available only for purchases of shares of a single Fund.

All interested persons are referred to said application which is on file in the Washington, D. C., office of the Commission for a more detailed statement of the matters of fact and law therein asserted.

Notice is further given that an order granting the application, in whole or in part and upon such conditions as the Commission may deem necessary or appropriate, may be issued by the Commission at any time on or after August 17, 1950, unless a hearing upon the application is ordered by the Commission as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may, not later than August 15, 1950, at 5:30 p. m., e. d. s. t., submit to the Commission in writing his views or any additional facts bearing upon this application or the desirability of a hearing thereon, or request in writing that the Commission order a hearing to be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C., and should state briefly the nature of interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 50-7002; Filed, Aug. 10, 1950;  
8:45 a. m.]

[File Nos. 54-127, 59-3, 59-12]

**ELECTRIC BOND AND SHARE CO. ET AL.  
SUPPLEMENTAL ORDER APPROVING PLAN, AS  
AMENDED**

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 4th day of August A. D. 1950.

Electric Bond and Share Company ("Bond and Share") a registered holding company, having heretofore filed a plan pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935, designated as Plan II-B, in which Bond and Share proposed that no fur-

ther payments be made to the holders of the certificates issued with respect to the \$5 and \$6 Preferred Stock of Bond and Share; and

The Commission, in its Order dated June 19, 1950, and its Findings and Opinion dated July 28, 1950 (Holding Company Act Release No. 9980) having held that the provisions of said Plan proposing no further payment to the holders of the certificates issued with respect to the \$5 Preferred Stock are fair and equitable, and having held that the provisions of said plan proposing no further payment to the holders of the certificates issued with respect to the \$6 Preferred Stock are unfair and inequitable, and that fairness requires that Bond and Share pay to the latter holders the sum of \$10 per share of \$6 Preferred Stock, together with compensation for the delay in receiving such payment at the rate of 5.45 percent per annum from March 6, 1947, to the date of payment of said \$10 per share; and

Bond and Share and certain holders of the certificates issued with respect to the \$5 Preferred Stock of Bond and Share having filed petitions for rehearing, and the Commission by order dated August 4, 1950, having denied said petitions; and

Bond and Share having thereafter on August 4, 1950, filed with the Commission an amendment to Plan II-B conforming said Plan to the determinations of the Commission as set forth in its Order dated June 19, 1950, and its Findings and Opinion dated July 28, 1950, Bond and Share reserving to itself the right to object to and seek review of that portion of said Findings and Opinion and Order requiring further payment to the holders of the certificates issued with respect to the \$6 Preferred Stock; and

Said amendment further providing that upon the expiration of six years following the effective date of Plan II-B, any cash funds not claimed by the holders of the certificates issued with respect to the \$6 Preferred Stock shall revert to Bond and Share free and clear of all claims of such holders; and

Bond and Share in said amendment having requested the Commission, pursuant to the applicable provisions of the Act, to apply to the United States District Court for the Southern District of New York to enforce and carry out the terms and provisions of Plan II-B, as amended; and

The Commission having considered the provisions of said amendment in the light of its Order of June 19, 1950, and its Findings and Opinion of July 28, 1950, and findings that Plan II-B, as amended, is fair and equitable to the persons affected thereby and necessary and appropriate to effectuate the provisions of section 11 (b) of the act;

*It is ordered*, That Plan II-B, as amended, be and hereby is approved;

*It is further ordered*, That jurisdiction be, and hereby is, reserved with respect to the reasonableness, appropriate allocation, and payment of all fees, expenses, and other remuneration in connection with Plan II-B, as amended.

*It is further ordered*, That jurisdiction be, and it hereby is, reserved to entertain such further proceedings, to make

such supplemental findings and orders, and to take such further action as the Commission may deem appropriate in connection with Plan II-B, as amended, the transactions incident thereto and the consummation thereof, and to take such further action as the Commission may deem necessary or appropriate to effectuate the provisions of section 11 (b) of the act.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 50-7003; Filed, Aug. 10, 1950;  
8:45 a. m.]

[File Nos. 54-127, 59-3, 59-12]

**ELECTRIC BOND AND SHARE CO. ET AL.  
ORDER DENYING PETITIONS FOR REHEARING**

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 4th day of August A. D. 1950.

Electric Bond and Share Company ("Bond and Share"), having filed a petition requesting a rehearing with respect to the Commission's Order dated June 19, 1950, and Findings and Opinion dated July 28, 1950, issued in connection with Plan II-B, filed by Bond and Share pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 and requesting the Commission to vacate and set aside said order of June 19, 1950 insofar as it relates to the payment to the holders of the certificates issued to the \$6 preferred stockholders of Bond and Share of an additional amount of \$10 per share plus compensation for delay in payment thereof; and

Certain holders of the certificates issued with respect to the \$5 Preferred Stock of Bond and Share having also filed a petition requesting rehearing; and

The Commission having duly considered the aforesaid petition and the grounds set forth therein, and it appearing that said petitions raise no matters of substance not previously considered by the Commission:

*It is ordered*, That said petitions be, and they hereby are, in all respects denied.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 50-7004; Filed, Aug. 10, 1950;  
8:45 a. m.]

**DEPARTMENT OF JUSTICE**

**Office of Alien Property**

**AUTHORITY:** 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 610; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9507, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9789, Oct. 14, 1946, 11 F. R. 11931.

[Vesting Order 13908, Amdt.]

ROBERT RELLING

In re: Safe deposit box lease and contents owned by Robert Relling. F-28-17647-F-1.

Vesting Order 13908, dated October 4, 1949, as amended, is hereby further amended as follows and not otherwise: By deleting subparagraph 2 (b) (2) of Vesting Order 13908, as amended, and substituting therefor the following subparagraph 2 (b) (2)

(2) Eighteen (18) shares of \$10.00 par value capital stock of the F. W. Woolworth Company, Woolworth Building, New York 7, New York, a corporation organized under the laws of the State of New York, evidenced by certificate numbered W/F 465883, registered in the name of Robert Relling, together with all declared and unpaid dividends thereon,

All other provisions of said Vesting Order 13908, as amended, and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on August 4, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 50-7018; Filed, Aug. 10, 1950;  
8:47 a. m.]

[Vesting Order 14544 Amdt.]

HERMANN RAMING

In re: Stock owned by Hermann Raming. F-28-23982 D-1.

Vesting Order 14544, dated April 7, 1950, is hereby amended as follows and not otherwise:

By deleting subparagraph 2b of the aforesaid Vesting Order 14544, and substituting therefor the following: Sixteen and fifteen-twentieths ( $16\frac{15}{20}$ ) shares of \$1.00 par value common capital stock of Republic Investors Fund, Inc., 15 William Street, New York 5, New York, a corporation organized under the laws of the State of Delaware, evidenced by 12 certificates numbered N1365 for five (5) shares, N1490 for four (4) shares, N1730 for three (3) shares, N3960 for thirteen (13) shares, N5225 for thirteen (13) shares, N5537 for five (5) shares, N6342 for six (6) shares, N7235 for one hundred six (106) shares, N8631 for four (4) shares, N10207 for thirty (30) shares, N10805 for fifty-one (51) shares, and N11282 for ninety-five (95) shares of five cent (\$.05) par value common stock of the aforesaid corporation, registered in the name of Hermann Raming, together with all declared and unpaid dividends thereon, and any and all rights to exchange said certificates for a new certificate for \$1.00 par value common capital stock of the aforesaid corporation.

All other provisions of said Vesting Order 14544, and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under authority

thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on August 4, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 50-7019; Filed, Aug. 10, 1950;  
8:48 a. m.]

[Return Order 692]

ASKANIA REGULATOR CO.

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith, *It is ordered*, That the claimed property, described below and in the determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., Notice of Intention To Return Published, and Property*

Askania Regulator Co., Chicago, Ill., Claim No. 823; June 30, 1950 (15 F. R. 4207); a one-third ( $\frac{1}{3}$ ) interest in royalties accrued and to accrue under an agreement dated January 1, 1936, by and between Askania-Werke, A. G., and the Milwaukee Gas Specialty Company, relating, among other things, to United States Letters Patent No. 2,231,567; including, but not limited to, the sum of \$79,901.90, representing  $\frac{1}{3}$  of the royalties paid to the Attorney General. All interest and rights (including all royalties and other monies payable or held with respect to such interest and rights) created in Askania-Werke, A. G., by virtue of the aforesaid agreement, were vested by Vesting Order No. 1519 (8 F. R. 10580, July 29, 1943).

This return shall not be deemed to include the rights of any licensees under the aforementioned agreement between Askania-Werke, A. G., and the Milwaukee Gas Specialty Company.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on August 7, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 50-7020; Filed, Aug. 10, 1950;  
8:48 a. m.]

[Return Order 704]

EDWARD V. KILLEEN AND DRAGOI  
BATZOUROFF

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

*It is ordered*, That the claimed property described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., Notice of Intention To Return Published, and Property*

Edward V. Killeen, executor under the last will and testament of Dragoi Batzouroff, deceased, New York, N. Y., Claim No. 42633; June 23, 1950 (15 F. R. 4563); \$25,000.00 in the Treasury of the United States.

The above property is being returned to claimant Executor for distribution to Germaine Buchman, Paris, France, a legatee under the Last Will and Testament of Dragoi Batzouroff, deceased, and for no other purpose.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on August 7, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 50-7021; Filed, Aug. 10, 1950;  
8:43 a. m.]

[Return Order 705]

SUSE FUERST POLATSCHKE

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

*It is ordered*, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., Notice of Intention To Return Published, and Property*

Suse Fuerst Polatschke, Haifa, Israel; Claim No. 42169; June 22, 1950 (15 F. R. 4938); \$2,520.55 in the Treasury of the United States. All right, title and interest of Blanka Fuerst in and to the Estate of Helen H. Taubler, also known as Helena Taubler and Helen H. Taeubler, deceased.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on August 7, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 50-7022; Filed, Aug. 10, 1950;  
8:48 a. m.]

[Return Order 706]

HENRY MARTIAL EMILE DU BOSQ.  
DE BEAUMONT

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

*It is ordered*, That the claimed property, described below and in the determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate pro-

vision for taxes and conservatory expenses:

*Claimant, Claim No., Notice of Intention To Return Published, and Property*

Henry Martial Emile du Boscq de Beaumont, Clvray S/Cher (Indre et Loire), France; Claim No. 31748; June 27, 1950 (15 F. R. 4125) property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943) relating to United States Letters Patent No. 2,179,881. This return shall not be deemed to include the rights of any licensees under the above patent.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on August 7, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
*Assistant Attorney General,  
Director Office of Alien Property.*

[F. R. Doc. 50-7023; Filed, Aug. 10, 1950; 8:48 a. m.]

[Return Order 707]

JULES MARCEL CHEVALIER

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

*It is ordered,* That the claimed property, described below and in the determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., Notice of Intention To Return Published, and Property*

Jules Marcel Chevalier, Commentry, France; Claim No. 33954; June 23, 1950 (15 F. R. 4069); property described in Vesting Order No. 666 (8 F. R. 5047, April 17, 1943) relating to United States Letters Patent No. 2,036,293. This return shall not be deemed to include the rights of any licensees under the above patent.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on August 7, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
*Assistant Attorney General,  
Director Office of Alien Property.*

[F. R. Doc. 50-7024; Filed, Aug. 10, 1950; 8:48 a. m.]

[Return Order 669, Amdt.]

OSKAR GLUCK

Having issued a determination on June 20, 1950, allowing the claim of Oskar Gluck, Hamburg, Germany, and having issued an amendment of said determination, which amendment by reference is incorporated herein and filed herewith, Return Order No. 669 (15 F. R. 4125) is hereby amended as follows and not otherwise:

By deleting the figures "\$167.75" and substituting therefor the figures "\$159.67"

All other provisions of said Return Order are hereby ratified and confirmed.

Executed at Washington, D. C., on August 7, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
*Assistant Attorney General,  
Director Office of Alien Property.*

[F. R. Doc. 50-7025; Filed, Aug. 10, 1950; 8:49 a. m.]

RICHARD H. M. JOACHIM

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., Property, and Location*

Richard H. M. Joachim, 53 E. Genesee Street, Auburn, N. Y., Claim No. 40755; \$165,-591.52 in the Treasury of the United States.

Executed at Washington, D. C., on August 7, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
*Assistant Attorney General,  
Director, Office of Alien Property.*

[F. R. Doc. 50-7026; Filed, Aug. 10, 1950; 8:49 a. m.]

INTERNATIONALT FORBUND TIL BESKYTTELSE AF KOMPONISTRETTERHEDER I.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., and Property*

International Forbund Til Beskyttelse Af Komponistrettigheder I. Danmark (KODA), Kromprinsessegade 28, Copenhagen; Claim No. 39984; property to the extent owned by the claimant immediately prior to the vesting thereof by Vesting Order No. 4010 (9 F. R. 13171, November 4, 1944), relating to musical compositions in the Wilhelm Nansen Musik-forlag catalogue, including royalties pertaining thereto in the amount of \$1,105.03.

Executed at Washington, D. C., on August 7, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
*Assistant Attorney General,  
Director, Office of Alien Property.*

[F. R. Doc. 50-7027; Filed, Aug. 10, 1950; 8:49 a. m.]